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NATIONAL DEFENSE UNIVERSITY
JOINT FORCES STAFF COLLEGE
JOINT ADVANCED WARFIGHTING SCHOOL



Always Ready for the Call: Leveraging the United States Coast Guard's Unique

Reputation & Capability in the South China Sea

By

Justin Matthew Carter

Commander, United States Coast Guard

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**Always Ready for the Call: Leveraging the United States Coast Guard's
Unique Reputation & Capability in the South China Sea**

By

Justin Matthew Carter

Commander, United States Coast Guard

A paper submitted to the Faculty of the Joint Advanced Warfighting School in partial satisfaction of the requirements of a Master of Science Degree in Joint Campaign Planning and Strategy. The contents of this paper reflect my own personal views and are not necessarily endorsed by the Joint Forces Staff College or the Department of Defense.

This paper is entirely my own work except as documented in footnotes.

Signature: 

19 APRIL 2018 (Date)

Thesis Advisor:

Signature: 

Professor David Rodearmel
(M.A., J.D., LL.M.)

Approved by:

Signature: 

Kristian Smith, Colonel, U.S. Army
Committee Member

Signature: 

Miguel L. Peko, Captain, U.S. Navy
Director, Joint Advanced
Warfighting School

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Abstract

The South China Sea is one of the world's most important, strategic, and contested maritime regions. Disputes over the sovereignty of hundreds of rocks, reefs, and claimed territorial seas and Exclusive Economic Zones have led to significant incidents and crises, and tensions in the region are unlikely to ease in the near future. Several nations have island building projects and use their law enforcement and military forces to protect claims. However, the People's Republic of China has used its dubious "Nine-Dash Line" to claim effectively the entire South China Sea and has developed its "reclaimed" islands with ports, airfields, and reportedly military sensors and weapons.

This thesis examines the problem of how China might exploit gaps in international rules, norms, and behavior in its use of the China Coast Guard and maritime militia to enforce excessive sovereign claims. The methodology includes a review of the evolution, growth, and activities of Chinese maritime forces, an examination of the U.S. Freedom of Navigation (FON) program, and a discussion of the history and evolution of the U.S. Coast Guard (USCG) as an armed force and law enforcement agency. Applying major international military exercises and theater security cooperation as models, the thesis argues the United States may advance strategic interests by employing the USCG in support of the Department of Defense and U.S. Pacific Command strategies. The thesis recommends leveraging the USCG's military capabilities, law enforcement authorities, and unique reputation by deploying a *Legend*-Class National Security Cutter to conduct theater security cooperation to bolster interoperability and capabilities of regional partners, and FON operations against excessive maritime claims.

Dedication and Acknowledgments

Dedication

To my girls. Thank you for your support, love, hugs, laughter, and happiness!
I love you! This year was a little busier than we expected, but it was a good adventure,
with many more to follow!

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Contents

CHAPTER 1 – INTRODUCTION: SOUTH CHINA SEA—STRATEGIC INTERESTS AND PROBLEMS	1
Strategic Value of the South China Sea	1
China’s Nine Dash Line & Territorial Disputes.....	2
China’s National and Military Strategy & Impact on South China Sea Interests	6
U.S. Strategic Interests in the South China Sea	7
Research Problem & Thesis Statement	9
Methodology	9
Tentative/Anticipated Conclusions	10
CHAPTER 2: BECOMING A MARITIME POWER – CHINA’S CAPABILITIES AND ACTIONS IN THE SOUTH CHINA SEA.....	11
What does China mean by becoming a “maritime power?”	11
Becoming a “Far Seas” Fleet – PLAN	12
Safeguarding Maritime Rights and Interests – China Coast Guard	13
“Model Mariners” – China’s Maritime Militia	18
Employment and Coordination of the PLAN, CCG, and Maritime Militia – Second Thomas Shoal.....	19
Code for Unplanned Encounters at Sea.....	21
CHAPTER 3: U.S. FREEDOM OF NAVIGATION OPERATIONS - UTILITY OR STRATEGIC GAP?.....	23
Freedom of Navigation (FON) Operations History & Background.....	23
U.S. FON Operations in the South China Sea.....	25
U.S. Navy Activities during Specific South China Sea FON Operations.....	27
USS LASSEN in the Spratly Islands – Innocent Passage	28
USS DECATUR in the Paracel Islands – Excessive Straight Baselines	30
Utility and Gaps of FON in the South China Sea	31
Improve Consistency	32
Balance Clarity & Transparency	32
Encourage Partner Nation FON Cooperation.....	33
Improve Operational Optics	34
Can the U.S. Coast Guard Help Mitigate Strategic Gaps?.....	35

CHAPTER 4: U.S. COAST GUARD – A UNIQUE INSTRUMENT OF U.S. NATIONAL POWER.....	36
U.S. Coast Guard as Military and Law Enforcement Agency	36
U.S. Coast Guard History & Evolution of Missions & Authorities	37
Coast Guard National Defense and Wartime Operations	39
USCG Engagement in International Exercises	41
Rim of the Pacific	42
PANAMAX & UNITAS	43
Africa Maritime Law Enforcement Partnership	44
USCG Engagement with PRC Maritime Organizations.....	47
Potential Ways to Employ the U.S. Coast Guard in the South China Sea.....	47
Course of Action 1: Employ the U.S. Coast Guard in a South China Sea Theater Security Cooperation	48
Course of Action 2: Employ the U.S. Coast Guard in a South China Sea FON Operation	50
CHAPTER 5: CONCLUSIONS & RECOMMENDATION.....	52
Recommendation: Deploy a U.S. Coast Guard National Security Cutter in support of U.S. Pacific Command/U.S. 7 th Fleet for a two-phased deployment consisting of a Theater Security Cooperation and Freedom of Navigation assertion in the South China Sea	53
Mitigating Risk.....	54
Value Added to U.S. Regional Objectives	57
Conclusion	59
Bibliography	60
Vita.....	72

CHAPTER 1 – INTRODUCTION: SOUTH CHINA SEA—STRATEGIC INTERESTS AND PROBLEMS

Strategic Value of the South China Sea

The South China Sea is one of the most contested strategic maritime areas of the world. Six nations—the People’s Republic of China (PRC), Vietnam, the Philippines, Malaysia, Indonesia, and Brunei—plus Taiwan, each have claims to territorial seas and Exclusive Economic Zones (EEZ) that collide in the South China Sea. Disputes over the sovereignty of hundreds of rocks, reefs, and the claimed territorial waters around them have existed for centuries, with nations resorting to violence at times to enforce their claims. Several nations have major projects to further assert their territorial claims by dredging and “reclaiming” land around rocks and reefs, with China’s reclamation of over 3,000 acres of land dwarfing the approximately 150 acres reclaimed by Malaysia, The Philippines, Taiwan, and Vietnam combined.¹

Connecting the Pacific and Indian Oceans via the Strait of Malacca, the South China Sea is vital to the global economy as a strategic line of communication. Over five trillion dollars of commercial shipping—approximately one-third of the world’s annual trade—transits through the South China Sea, making freedom of navigation and security of shipping vital concerns to every nation that conducts maritime trade.²

In addition to its importance to maritime trade, the South China Sea and the seafloor beneath it contain significant natural resources, including major fisheries stocks,

¹ Ely Ratner, 2017, Course Correction: How to Stop China's Maritime Advance, *Foreign Affairs* 96, no. 4, 65, <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=edsgbc&AN=edsgcl.503309727&site=eds-live&scope=site>.

² U.S. Department of Defense, *Asia-Pacific Maritime Security Strategy*, August 2015, 1.

natural gas, and oil. A significant portion of the global fisheries commons—about ten percent of the world’s annual commercial catch—is harvested in the South China Sea, and fisheries are important as both an economic driver and protein source for regional nations. Worldwide fisheries harvests have grown five hundred percent since 1950, an incredible increase that threatens the continued viability of resources in which only fifteen percent of the world’s total fisheries stocks have room for growth.³ Overfishing has depleted coastal fishing stocks to between five and thirty percent of their estimated unexploited strength, a massive degradation of a critical resource for China, the world’s largest fisheries producer and consumer.⁴ Further increasing the strategic value of the region are the energy resources located under the South China Sea. Though estimates vary widely between U.S. reports of approximately 11 billion barrels of oil and 190 trillion cubic feet of natural gas and Chinese reports of 125 billion barrels and 500 trillion cubic feet of oil and gas respectively, access to and exploitation of energy resources surely weighs heavily in the region’s territorial disputes.⁵

China’s Nine Dash Line & Territorial Disputes

China bases its territorial claims in the South China Sea on a line curving through the region that effectively marks nearly all of it as Chinese territory. Dating unofficially to the 1930s, the line first appeared on an official map published in 1947 by the Ministry of the Interior of the Republic of China with eleven dashes circling islands in the South

³ United Nations Food and Agricultural Organization (FAO), *The State of World Fisheries and Aquaculture 2012*, (Rome: FAO, 2012), 1, 11, 12.

⁴ Alan Dupont and Christopher G. Baker, 2014, East Asia's Maritime Disputes: Fishing In Troubled Waters, *Washington Quarterly* 37, no. 1, 81, <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=mth&AN=94885876&site=eds-live&scope=site>.

⁵ Katherine Morton, “China's Ambition in the South China Sea: Is a Legitimate Maritime Order Possible?,” *International Affairs* 92, no. 4, 915, <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=tsh&AN=116256305&site=eds-live&scope=site>.

China Sea.⁶ Chinese authorities sent the most recent claim—now the “Nine Dash Line”—to the United Nations (UN) in May 2009, and argued China has “...indisputable sovereignty over the islands in the South China Sea and adjacent waters...[and] rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof.”⁷

These claims rely heavily on purported “traditional” or “historical” rights rather than the principle of international law that land determines claims to territorial sea, are exceedingly ambiguous, and have been heavily debated and disputed.⁸ For example, the Philippines submitted in 2013 a claim for arbitration to an arbitral panel under annex VII of the United Nations Convention on the Law of the Sea (UNCLOS). The panel ruled in 2016 that none of the land features and claimed territories in the Spratly Island meet the definition of “islands” and are therefore only rocks or reefs, which do not provide the basis for claims to a 200 nautical mile EEZ.⁹ This ruling was an important blow to China’s excessive EEZ claims, as rocks provide a baseline for territorial seas only but not an EEZ, while features made from “reclaimed reefs” provide no legal basis for territorial claims. The United States indicated its opinion on the Nine Dash Line in 2014 when then-Assistant Secretary of State for East Asian and Pacific Affairs Daniel Russel said China’s use of the line to claim maritime rights was “inconsistent with international law” because it is not based on land features.¹⁰

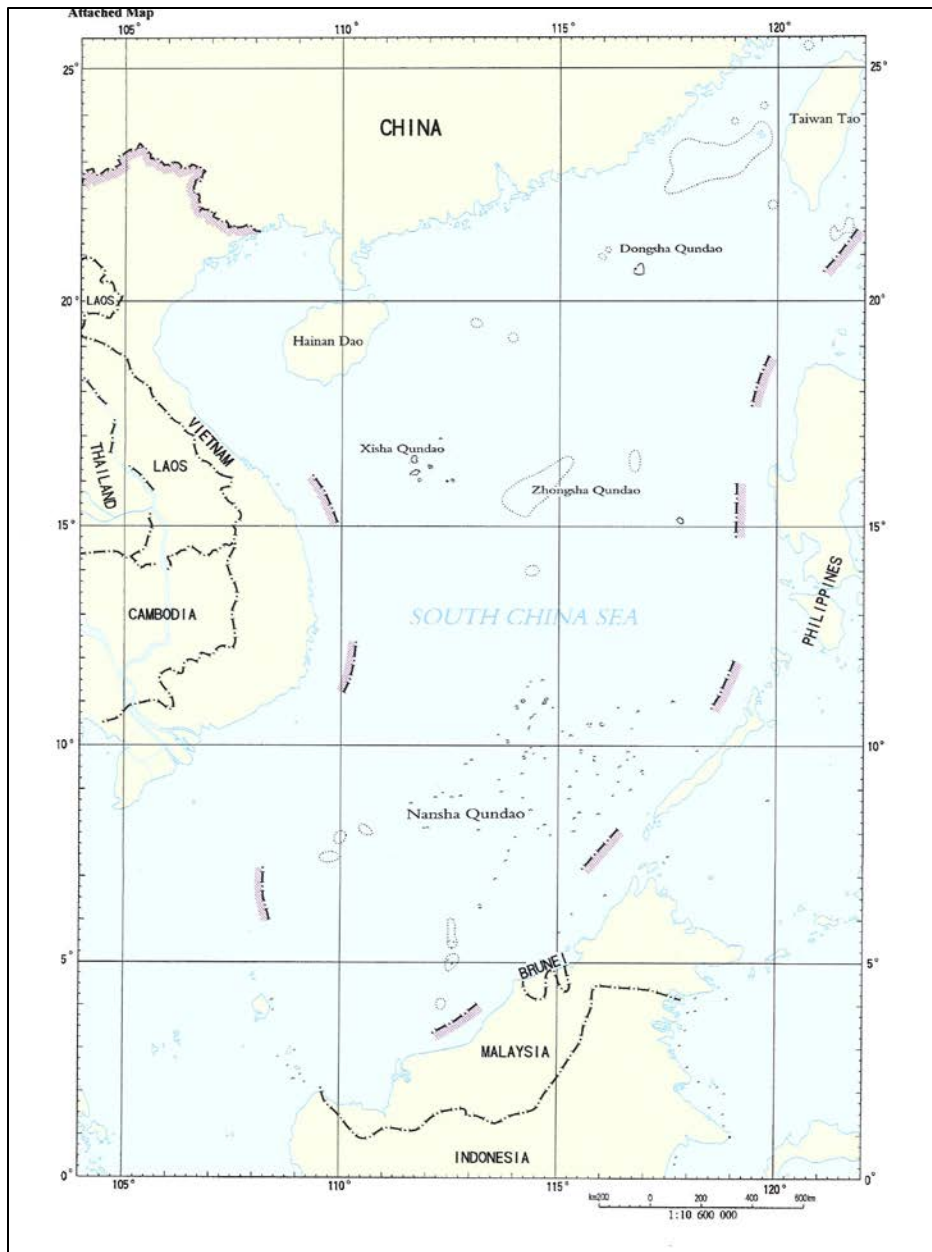
⁶ Morton, “China’s Ambition,” 919.

⁷ Permanent Mission of the People’s Republic of China to the United Nations, Submission to Secretary General of the United Nations, CML/18/2009, 1, www.un.org/depts/los/clcs_new/submissions_files/vnm37.../chn_2009re_vnm.pdf (accessed November 1, 2017).

⁸ Morton, “China’s Ambition,” 919.

⁹ Mira Rapp-Hooper, “Parting the South China Sea: How to Uphold the Rule of Law,” *Foreign Affairs*, no. 5, 2016, 77, <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com.nduezproxy.idm.oclc.org/login.aspx?direct=true&db=edsgbc&AN=edsgcl.463401009&site=eds-live&scope=site;> (accessed October 31, 2017).

¹⁰ Testimony of Assistant Secretary of State Daniel Russel, Bureau of East Asian and Pacific Affairs, U.S. Department of State, before the U.S. House Committee on Foreign Affairs, Hearing on



China's "Nine-Dash Line," Map from the People's Republic of China 2009 *Note Verbale* to the United Nations, May 7, 2009.

International opposition to these excessive territorial claims has not deterred China's work to build infrastructure on its claimed South China Sea features, nor

Maritime Disputes in East Asia, 5 February 2014, <https://2009-2017.state.gov/p/eap/rls/rm/2014/02/221293.htm> (accessed October 31, 2017).

diminished efforts to assert and attempt to enforce rights within claimed territorial seas and EEZs. Since 2014, China has built up significant amounts of land and installed major infrastructure, including a large port and a 3,000-meter runway on Fiery Cross Reef, and built communications, logistics, and other facilities on several land formations.¹¹ Though Xi Jinping claimed during a 2015 press conference with President Obama that the islands and facilities would not be used for military purposes, other Chinese leaders have indicated otherwise. Foreign Ministry spokeswoman Hua Chunying stated construction on the Spratly Islands was part of efforts towards “better safeguarding territorial sovereignty and maritime rights and interests” and to “satisfy...military defense needs.”¹² China’s announcement of an air defense identification zone in the East China Sea in 2013 and February 2016 reports that China may have deployed surface-to-air missile batteries on a disputed island, coupled with continued efforts to build military and logistics facilities on built-up features, lend credence to U.S. concerns that China’s ultimate goal is to establish a network of defense capabilities that could interfere with freedom of navigation and limit U.S. power projection in the region.¹³

¹¹ James Hardy and Sean O’Connor, “China Completes Runway on Fiery Cross Reef,” IHS Jane’s Defence Weekly, 25 September 2015, <http://www.andrewerickson.com/2015/09/china-completes-runway-on-fiery-cross-reef/> (accessed November 1, 2017).

¹² The White House, Office of the Press Secretary, remarks by President Obama and President Xi Jinping of the People’s Republic of China, joint press conference, Washington, D.C., 25 September 2015 (as interpreted), <https://obamawhitehouse.archives.gov/the-press-office/2015/09/25/remarks-president-obama-and-president-xi-peoples-republic-china-joint>; Andrew S. Erickson, *America’s Security Role in the South China Sea: Hearing before the Subcommittee on Asia and the Pacific of the Committee on Foreign Affairs, House of Representatives, One Hundred Fourteenth Congress, First Session*, July 23, 2015, Washington: U.S. Government Publishing Office, 9.

¹³ Jonathan Fenby, “The Great Wall Of Sand: China’s Aggressive Claims To Sovereignty In The South China Sea Have Angered Its Asian Neighbours and Raised Fears Of A Showdown With The US,” *New Statesman*, 13-19 May 2016, 30, <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=edsdbc&AN=edsdcl.454269442&site=eds-live&scope=site> (accessed October 31, 2017).; Erickson, *America’s Security Role in the South China Sea*, 10.

China's National and Military Strategy & Impact on South China Sea Interests

In a paper concluding that one of the core interests in China's grand strategy is "State Sovereignty, National Security, Territorial Integrity, and National Reunification," Simon Norton argues the focus of China's sovereignty interest is Taiwan, and while the sovereignty issues in the South China Sea are related, they are not yet a core interest.¹⁴ However, China's 2015 military strategy indicates a shift in military thinking towards increasing maritime power and influence, in that the "traditional mentality that land outweighs sea must be abandoned" and that China must place great importance on managing the seas, protecting maritime rights, safeguarding national sovereignty, and protecting strategic lines of communication and overseas interests.¹⁵ Additionally, two recent Chinese presidents have argued for greater Chinese maritime expansion and power. Hu Jintao stated in his address to the 2012 Chinese Communist Party's 18th Congress that China should improve its ability for "...exploiting maritime resources, absolutely safeguard China's maritime rights and interests, and build China into a maritime power," while Xi Jinping said China's maritime strategy included "resolutely safeguarding maritime rights and interests."¹⁶ Given China's rising maritime power and aggressive efforts to build up and improve infrastructure on "reclaimed" islands and protect maritime claims—in conjunction with the "One Belt, One Road" initiative—one can conclude that while South China Sea claims arguably may not now rise to the level of a "core interest," they likely will in the future.

¹⁴ Simon Norton, *China's Grand Strategy*, China Studies Centre, Sydney, Australia: The University of Sydney, November 2015, 6.

¹⁵ People's Republic of China, *China's Military Strategy*, Beijing: The State Council Information Office of the People's Republic of China, May 2015, 2, <https://news.usni.org/2015/05/26/document-chinas-military-strategy>

¹⁶ Morton, "China's Ambition," 932.

U.S. Strategic Interests in the South China Sea

Though the United States is not a party to South China Sea sovereignty disputes, it has strategic interests in the region. These interests include defending freedom of navigation, preventing the rise of a regional hegemon, maintaining air and naval superiority, and ensuring stability, particularly with respect to regional treaty partners.¹⁷

Freedom of navigation is a key element of U.S. economic and national security, and important to the ability to keep shipping lanes open for global commerce to project power, and to protect overseas national interests. The United States defines “freedom of the seas” as “the rights, freedoms, and lawful uses of the sea and airspace...for military ships and aircraft, recognized under international law,” to include within another state’s 200 nautical mile EEZ.¹⁸ However, China interprets the United Nations Convention on the Law of the Sea (UNCLOS) to mean ships or aircraft may not access a state’s EEZ for either military or economic reasons without permission. Differences in interpreting this fundamental definition are important within the South China Sea issue. The United States has an important role in disputing China’s interpretation of freedom of the seas. Doing nothing to counter these claims could lead to the setting of a dangerous precedent that ultimately could lead to de facto recognition or acceptance of excessive claims in international law that would limit freedom of navigation.¹⁹

¹⁷ Ronald O'Rourke, *Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress*, Congressional Research Service Report: 1-75, 31 May 2016, <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=tsh&AN=115178173&site=eds-live&scope=site>, (accessed September 12, 2017), 7-8; Phuong Nguyen, “Deciphering the Shift in America's South China Sea Policy,” *Contemporary Southeast Asia: A Journal of International & Strategic Affairs* 38, no. 3, 390, <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=tsh&AN=120161760&site=eds-live&scope=site> (accessed September 12, 2017).

¹⁸ U.S. Department of Defense, *Asia-Pacific Maritime Security Strategy*, August 2015, 1-2.

¹⁹ O'Rourke, *Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress*, 11.

Another U.S. strategic interest is preventing the development of a regional hegemon in East Asia. With its claims to nearly all of the South China Sea, intense efforts to develop potentially militarized infrastructure, aggressive actions to defend and protect claims to the seas and airspace, and intent to increase maritime capability, China appears to have aims as a regional hegemonic power. The “pivot” or “rebalance” towards the Pacific during the Obama Administration likely was at least partially aimed at improving the United States’ ability to counter the threat of China’s rise as a regional hegemon.²⁰ The Trump Administration’s 2017 National Security Strategy (NSS) notes that while China presents its ambitions as mutually beneficial, it seeks to limit U.S. access to the South China Sea and its dominance threatens the sovereignty of other states that are calling for U.S. leadership in a “collective response” to uphold regional order. Priority NSS actions in the Indo-Pacific include reinforcing U.S. commitment to freedom of the seas, improving capabilities of Southeast Asian partners, and re-energizing alliances with the Philippines and Thailand and strengthening partnerships with Singapore, Vietnam, Indonesia, and Malaysia.²¹

A third U.S. interest in the South China Sea is regional stability.²² The United States has begun actions to improve the maritime security of regional partners, including seeking over \$300 million to develop increased surface and air capabilities, improve training, strengthen intelligence, surveillance, and reconnaissance capacity, and conduct security assistance programs.²³ Ensuring regional partners have the assets, governance

²⁰ O’Rourke, *Maritime Territorial and EEZ Disputes Involving China*, 8.

²¹ The White House, *National Security Strategy of the United States of America*, December 2017, 45-47.

²² O’Rourke, 8.

²³ The White House, “FACT SHEET: U.S. Building Maritime Capacity in Southeast Asia,” <https://obamawhitehouse.archives.gov/the-press-office/2015/11/17/fact-sheet-us-building-maritime-capacity-southeast-asia> (accessed October 31, 2017).

systems, professionalism, law enforcement institutions, and capacity to provide increased maritime security is essential to maintaining stability in the South China Sea.

Research Problem & Thesis Statement

The thesis will research the following problem:

How has China leveraged the China Coast Guard (CCG) and other maritime agencies to exploit gaps in international law, rules, practices, or norms in the South China Sea?

The paper's thesis is that the U.S. Coast Guard (USCG) can leverage unique capabilities, reputation, experience, expertise, and authorities to mitigate or minimize strategic gaps between U.S. and Chinese actions, bolster relationships with U.S. regional partners, and advance U.S. interests in the South China Sea.

Methodology

The thesis will examine the evolution, development, and growth of China's three maritime arms, the People's Liberation Army-Navy (PLAN), CCG, and maritime militia, and their operations in the South China Sea. The thesis will then examine U.S. activity in the South China Sea, specifically the U.S. Freedom of Navigation (FON) Program. Analyzing the utility of FON operations in the South China Sea to achieve U.S. strategic interests, in context with China's growing reliance on the CCG to defend excessive maritime claims may indicate strategic gaps in how the two maritime nations are leveraging forces in the South China Sea and their potential negative consequences on regional stability.

The paper will then examine how employing the USCG might minimize or mitigate any potential mismatches in U.S. and Chinese actions and support U.S. strategic interests. A brief examination of the evolution of Coast Guard missions, authorities, and

exploits will introduce the Service’s unique blend of military, law enforcement, and civil duties. The thesis will also review U.S. Coast Guard participation in international military exercises as models for similar engagements in the South China Sea.

Tentative/Anticipated Conclusions

The South China Sea is an area of strategic interest—not just for the six nations with claims to islands or features, territorial seas, EEZ, and the resources and sovereign interests within them—but also to nations that rely upon unimpeded transport of goods, materials, and energy resources through vital shipping lanes, enjoy greater security from the balance of power in region, and to other nations and organizations that make or adjudicate territorial claims. Applying USCG participation in several multinational exercises as models, the thesis will argue that the United States may achieve strategic gains in the South China Sea by leveraging the unique military, law enforcement, and maritime governance authorities, capability, and professional reputation of the USCG in a “South China Sea Maritime Law Enforcement Partnership” or similar theater security cooperation. This exercise would be aimed at improving interactions, communications, protocols, and professional standards of the coast guard or similar agencies of South China Sea states with the objective of increased regional stability, while strengthening relationships between the United States and regional partners. Further, the USCG may provide additional strategic influence in the South China Sea by conducting FON operations. Using USCG cutters in FON operations may lead to China responding with a CCG cutter escort, which might improve continued discourse between the two nations, encourage expansion of a code of conduct for encounters at sea between ships and aircraft, raise the professionalism of the CCG, and ultimately increase regional stability.

CHAPTER 2: BECOMING A MARITIME POWER – CHINA’S CAPABILITIES AND ACTIONS IN THE SOUTH CHINA SEA

“We should enhance our capacity for exploiting marine resources, develop the marine economy, protect the marine ecological environment, resolutely safeguard China’s maritime rights and interests, and build China into a maritime power.”

- President Hu Jintao, November 19, 2012¹

What does China mean by becoming a “maritime power?”

Based on the actions China has taken in the few years since Hu Jintao’s declaration of intent in 2012, becoming a maritime power is clearly a key national objective.² Thomas Bickford’s comprehensive analysis of Chinese interpretations of what it means to become a “maritime power” notes important factors nearly identical to Western ideas, including a strong navy, effective coast guard, world-class merchant marine and fishing fleet, major shipbuilding capacity, and the ability to extract and exploit maritime resources.³ Through interviews with Chinese maritime experts, he identified additional factors in China’s drive to increase maritime power, including:

- National security, particularly from overseas threats;
- Maritime trade security, particularly security of shipping and strategic sea lines of communication;
- Maritime resource exploitation, particularly fisheries and energy;
- National sovereignty and protection of maritime rights and interests;
- Desire for a greater role or status in international maritime affairs;
- Maritime environmental concerns⁴

¹ Chinese Communist Party, *Full text of Hu Jintao’s report at 18th Party Congress*, November 27, 2012, http://www.china-embassy.org/eng/zt/18th_CPC_National_Congress_Eng/t992917.htm (accessed February 20, 2018).

² Mike Chia-Yu Huang, “China’s 2013 Reform of Maritime Law Enforcement: Progress and Unsolved Issues,” *The Korean Journal of Defense Analysis*, Vol. 28, No. 4, (December 2016), 546.

³ Thomas Bickford, “China and Maritime Power: Meanings, Motivations, and Strategy,” in *Becoming a Great “Maritime Power: A Chinese Dream*, ed. Michael McDevitt, CNA, June 2016, 8.

⁴ Bickford, “China and Maritime Power,” 8-13.

An important implication for the United States is that many Chinese analysts perceive the U.S. pivot to Asia as a barrier to China's dream of maritime power status.⁵ He also notes China's goal is not to just "become" a maritime power, but to be a world leader across all of the elements of maritime power. In many cases, China already has this status and leads the way in many tangible measures such as having the largest shipbuilding and fishing industries, one of the largest civil merchant fleets, and the largest coast guard in terms of number of vessels.⁶ China is well on its way to achieving Hu Jintao's dream of becoming a maritime power. Organizations key to this objective are the PLAN, CCG, and the maritime militia.

Becoming a "Far Seas" Fleet – PLAN

According to China's 2015 defense white paper, one of the most important steps towards the overall goal of great maritime power status is improving PLAN capacity to operate not just in the "near seas" close to the Chinese mainland, but to "gradually shift focus from offshore waters defense to the combination of offshore waters defense...[with] open seas protection" of national security interests.⁷ China has been modernizing the PLAN since the 1990s with a broad-based effort to improve surface, submarine, naval air, weapons systems, logistics, and other supporting elements, towards increased capability for the following activities:

- Military support to reunification efforts with Taiwan;
- Assert and defend territorial claims in the East and South China Seas;
- Enforce its claims to regulate foreign military activities inside the EEZ;
- Counter or displace U.S. influence in the Western Pacific;
- Assert China's status as a leading regional and major world power⁸

⁵ Ibid., 32.

⁶ Ibid., 21.

⁷ China's Military Strategy.

⁸ Ronald O'Rourke, "China Naval Modernization: Implications for U.S. Navy Capabilities-Background and Issues for Congress." February 28, 2014. Congressional Research Service, 4.

China's ambitious naval modernization has been successful in building a navy that will soon rival the U.S. Navy at least in terms of numbers, with estimates that it may have the world's second-largest navy and amphibious capability by 2020.⁹

The PLAN has a significant role in the South China Sea, where "offshore waters defense" is its most important mission.¹⁰ PLAN warships have responded to all U.S. FON operations, usually escorting the U.S. Navy ship during the assertion. As the PLAN gradually shifts focus to open seas protection and the CCG continues to mature, two important implications for the United States may rise. First, as China's oversea power projection capability grows, the U.S. Navy will more frequently interact with the PLAN in areas outside the Western Pacific. Second, with the PLAN's shift to far seas operations, U.S. Navy interactions with CCG vessels may increase in the South China Sea as the CCG takes on increased rights protection duties.

Safeguarding Maritime Rights and Interests – China Coast Guard

Developing an effective maritime law enforcement organization and asserting legal authority is another step China is pursuing to achieve the goal of becoming a maritime power. Until 2013, China vested its maritime law enforcement efforts in five different organizations distributed throughout several government ministries, including the State Oceanic Administration's China Marine Surveillance, the Department of Agriculture's China Fisheries Law Enforcement, Ministry of Public Security's Border Defense Coast Guard, the General Administration of Customs' Maritime Anti-Smuggling

⁹ Michael McDevitt, "China's Far Seas Navy: The Implications of the 'Open Seas Protection' Mission," in *Becoming a Great "Maritime Power": A Chinese Dream*, ed. Michael McDevitt, CNA, June 2016, 48.

¹⁰ McDevitt, "China's Far Seas Navy," 36.

Police, and the Ministry of Transportation's Maritime Safety Administration.¹¹ China's maritime law enforcement structure was disorganized and inefficient because each agency operated independently and with narrow operational and legal foci. In March 2013, the National People's Congress combined four of the agencies into the CCG, leaving only the Maritime Safety Administration as a separate entity.¹²

The CCG has grown quickly with dozens of new classes of cutters built in a few years. It is now the largest coast guard in the world in terms of the sheer numbers and sizes of its cutters, including two ships designed for East China Sea and South China Sea patrols that displace 10,000 tons. While most CCG ships carry non-lethal technologies like water cannons or long range audible devices, the larger ships entering service have light weapons systems—30mm and 76mm cannons—and a few are equipped with unmanned aerial vehicle (UAV) systems.¹³ The CCG is a large and capable force well-equipped materially to protect China's territorial claims in the South China Sea.

The CCG has mimicked the USCG in several ways, including painting its vessels in a very similar “livery” with a red and blue stripe and using a nearly identical font for the words “CHINA COAST GUARD” on its ship's white hulls.¹⁴ However, there are many differences between the services, with the most important being the scope of their

¹¹ Huang, “China's 2013 Reform of Maritime Law Enforcement,” 546.

¹² Ryan Martinson, “The China Coast Guard-Enforcing China's Maritime Rights and Interests,” in *Becoming a Great “Maritime Power”: A Chinese Dream*, ed. Michael McDevitt, CNA, June 2016, 53.

¹³ Franz-Stefan, Gady, “China Coast Guard's New ‘Monster’ Ship Completes Maiden Patrol in South China Sea,” *The Diplomat*, May 8, 2017, <https://thediplomat.com/2017/05/china-coast-guards-new-monster-ship-completes-maiden-patrol-in-south-china-sea/>, accessed December 5, 2017.; Office of the Secretary of Defense, “Annual Report to Congress: Military and Security Developments Involving the People's Republic of China 2017,” May 15, 2017, 56.

¹⁴ Dan Parsons, “South China Sea Dispute Shaping Up as Coast Guard Showdown,” *National Defense* 98, no. 727, p. 30, <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=mth&AN=96262140&site=eds-live&scope=site> (accessed September 11, 2017).

missions. While the USCG is at all times a military service with a wide mission set that includes both defense and civil regulatory authorities, the CCG has one major mission. This is an interesting difference, as “China Coast Guard” implies the agency—like other maritime services across the globe—conducts a variety of missions besides law enforcement, to include search and rescue and humanitarian operations.

The CCG is China’s “primary instrument of rights protection,” with four subordinate aspects:

- Sail through and linger in disputed waters to bolster a claim of ownership;
- Track, monitor, and sometimes obstruct foreign naval vessels operating in China’s claimed EEZ;
- Ensure the security of Chinese state and private vessels operating in disputed waters;
- Deny foreign use of Chinese-claimed waters¹⁵

While it retains other law enforcement missions of the agencies that formed it, the CCG’s primary purpose is to safeguard maritime rights and interests. The four sub-missions above imply the CCG performs this mission not by inspecting vessels to enforce domestic fisheries or safety regulations, but rather by maintaining presence in disputed areas, coercing and repelling other coast guards or foreign fishing vessels, and protecting Chinese vessels from other nations’ law enforcement agencies, often with unprofessional tactics like unsafe maneuvering and ramming other vessels.¹⁶ These tactics have led to many dangerous encounters, as noted in one report that “of 53 major incidents from 2010 to 2017, 75 percent involved at least one CCG cutter.”¹⁷

¹⁵ Martinson, 54-55.

¹⁶ Lyle Morris, “Blunt Defenders of Sovereignty: The Rise of Coast Guards in East and Southeast Asia,” *Naval War College Review*, Vol 70, No. 2 (Spring 2017), 80.

¹⁷ China Power Team, “Are Maritime Law Enforcement Forces Destabilizing Asia?,” *China Power*, August 18, 2016, updated November 7, 2017, <https://chinapower.csis.org/maritime-forces-destabilizing-asia/> (accessed December 5, 2017).

Integrating several different governmental agencies, each with different authorities, jurisdictions, responsibilities, and cultures into one organization will take some time. China has taken steps towards integrating the different organizations that made up the CCG, and is probably fairly well along in combining their operational aspects. For instance, very soon after the creation of the CCG in 2013, the agency conducted its first “joint” patrol with former ships of the China Maritime Surveillance and Fisheries Law Enforcement agencies.¹⁸ The CCG began the more difficult task of coordinating and organizing the efforts of operational forces by creating a national operations center (NOC) in 2014, which provides tasking to individual cutters and coordinates between regional directorates of the CCG.¹⁹ It is unclear how much national integration exists beyond operational tasking, as the NOC may not yet have budgetary or administrative control, or the framework to coordinate with other national agencies.²⁰ Another recent major organization change will also significantly influence the evolution of the CCG as a maritime agency.

In March 2018, the PRC made a major command and control and an administrative change for the CCG that will have significant implications for its activity in the South China Sea. Chinese leadership announced that the CCG would move under the administration of the People’s Armed Police (PAP), a paramilitary force that itself recently came under direct control of the Central Military Commission.²¹ The implications of this move are that while the CCG previously was a civilian agency under

¹⁸ Huang, 554.

¹⁹ Ryan D. Martinson, “From Words to Actions: The Creation of the China Coast Guard,” A paper for the China as a “Maritime Power” Conference, Arlington, VA, July 28-29, 2015, 41-42.

²⁰ Huang, 556.

²¹ Liu Zhen, “China’s Military Police Given Control of Coastguard as Beijing Boosts Maritime Security,” *South China Morning Post*, March 21, 2018, <http://www.scmp.com/news/china/diplomacy-defence/article/2138257/chinas-military-police-given-control-coastguard-beijing> (accessed April 8, 2018).

the State Oceanic Administration, it will now be a military organization. This will likely improve the training and capability of the CCG, and according to Lyle Morris of RAND, may give the service more “...flexibility and authority to act decisively...” and may change how the CCG uses force and how it operates with the PLAN.²² Until this change, lack of clarity on the CCG’s status as an armed police force had potential implications for the agency’s standard operating procedures, authority to conduct defense or security operations, or to operate as part of or in conjunction with the PLAN.²³ This may become clearer as the CCG reorganizes as part of the PAP. An important nuance existed in Chinese activity prior to the militarization of the CCG in that by using nonmilitary assets to enforce maritime rights, the PRC might have gained a strategic advantage by exploiting international perceptions, norms, and maritime governance rules in ways that military vessels cannot, avoiding irrevocably damaging relations with other nations, and strengthening territorial claims.²⁴

Another important problem for the CCG is the lack of legal foundations for its mission. Most of China’s maritime law regulations to date were enacted for very specific maritime issues and intended to be enforced by the individual agencies that now make up the CCG, such as fisheries regulations enforced by the FLEC.²⁵ China will need to update existing laws to provide the legal framework and authorities for the CCG to continue the organization’s professionalization. Given this reorganization and further restructuring planned following the move to the PAP, the CCG’s organizational culture, and legal

²² Liu Zhen, “China’s Military Police Given Control of Coastguard.”

²³ Ibid., 556.

²⁴ Morris, “Blunt Defenders of Sovereignty,” 79; Ryan Martinson, “China’s Second Navy,” *U.S. Naval Institute Proceedings*, Vol 141/4/1, April 2015, <https://www.usni.org/magazines/proceedings/2015-04-0/chinas-second-navy> (accessed December 31, 2017).

²⁵ Huang, 556.

framework for its authorities, capabilities, and potentially standard procedures will continue to evolve and will remain an important trend in South China Sea security.

“Model Mariners” – China’s Maritime Militia

The third major entity China uses in territorial disputes is the maritime militia. The oldest of China’s three maritime arms, the history of the maritime militia can be traced to the 1950s when the Chinese Communist Party began controlling fishing communities and organizing them into collectives, providing them political education, and leveraging them as a maritime force to support the PLAN.²⁶ Today, China’s maritime militia is a separate component of the People’s Armed Forces (PAF), organized and commanded directly by the PLA’s local military commands.²⁷ For this reason, Conor Kennedy and Andrew Erickson of the U.S. Naval War College propose referring to these irregular forces as the “People’s Armed Forces Maritime Militia” (PAFMM).²⁸ The militia are civilians who retain their normal employment while receiving training, but provide services to support the PLA for various missions, including intelligence gathering, logistics support, emergency response, maritime rights protection, and even light combat operations including sabotage.²⁹ The PAFMM’s significant political and operational roles in China’s maritime power goal are noted in comments by He Zhixiang, Director of the Guangdong Military Region Headquarters Mobilization Department in 2013:

- “It forms a certain embodiment of national will of the people in implementing maritime administrative control;

²⁶ Andrew S. Erickson and Conor M. Kennedy, *China’s Maritime Militia*.

²⁷ Conor M. Kennedy and Andrew S. Erickson, “China’s Third Sea Force, the People’s Armed Forces Maritime Militia: Tethered to the PLA,” *China Maritime Report* No.1, March 2017, China Maritime Studies Institute, U.S. Naval War College, 1.

²⁸ Kennedy and Erickson, “China’s Third Sea Force,” 1.

²⁹ Andrew S. Erickson and Conor M. Kennedy, “China’s Maritime Militia,” https://www.cna.org/cna_files/pdf/chinas-maritime-militia.pdf (accessed December 5, 2017).

- It helps shape public opinion, as a group of “model” mariners meant to inspire both enterprises and the masses to get involved in maritime development and travel out to China’s possessions (disputed islands and reefs);
- It is a guarantor of public safety, with its members often serving as the first responders in emergencies since they are already distributed out across the seas.”³⁰

The PAFMM has engaged in many maritime incidents in the South China Sea, including some of the most controversial and dangerous. The ambiguity of the PAFMM’s status as a security force made up of civilian mariners aligned with, but not a subcomponent of, the PLA provides China with a significant tool in enforcing maritime rights. Leveraging their “blurred status,” the PAFMM can act at sea in ways that would otherwise harm the legitimacy of the PLAN and CCG as professional maritime agencies, and provides China with plausible deniability for the organization’s actions.³¹

Employment and Coordination of the PLAN, CCG, and Maritime Militia – Second Thomas Shoal

The PLAN, CCG, and PAFMM have been involved in several major incidents with the fishing fleets and maritime forces of other South China Sea nations. Some of the most notable occurred at Scarborough Shoal in 2012, at Second Thomas Shoal in the Spratly Islands in May 2013, and around the oil rig Haiyang Shiyu 981 (HYSY 981) in May 2014 near the Paracel Islands. The oil rig incident is a good case study of how China leverages all three of its maritime forces to operate below the threshold of conflict.

In May 2014, Vietnam detected a flotilla of Chinese ships with the oilrig HYSY 981 near Triton Island in the Spratlys. The rig was in an area where China and Vietnam

³⁰ He Zhixiang, “Discussion on the ‘Four Integrations’ in Maritime Militia Construction,” *National Defense*, No. 4 (2013), quoted in Andrew S. Erickson and Conor M. Kennedy, “China’s Maritime Militia,” https://www.cna.org/cna_files/pdf/chinas-maritime-militia.pdf (accessed December 5, 2017), 4.

³¹ Kennedy and Erickson, “China’s Third Sea Force,” 4.

have disputed claims, on the Vietnamese side of a line proposed as the median between the two EEZs.³² After Vietnamese patrol forces arrived to demand the withdrawal of the rig, the numbers of maritime forces from both nations rose quickly. Within a week there were allegedly up to 60 Chinese ships on scene—including fishing vessels, 30 CCG cutters, and seven PLAN warships—while Vietnam deployed nearly 30 vessels. Tensions and interactions between the opposing forces escalated dramatically, with Vietnam claiming that Chinese forces rammed or used water cannons against their ships and injured several sailors. China stated it had displayed restraint in only using water cannons after rammings by Vietnamese ships, and complained Vietnam deployed armed vessels to the area while China had sent only civilian government ships.³³

Throughout the standoff, Chinese forces gradually expanded a security zone around the oil rig from one to 15 nautical miles, and continually increased the number of ships on scene. By the end of the crisis, Vietnamese forces reported that the Chinese had over 130 ships around the oil rig. Chinese forces deployed in a defensive posture around the rig, with fishing vessels—almost certainly part of the PAFMM—positioned a few miles out, CCG cutters in a middle ring, and two PLAN frigates closest to the oilrig.³⁴

Tugboats moved HYSY 981 into the high seas on May 27, 2014, approximately 23 nautical miles northeast of where it had conducted operations for nearly a month, effectively ending the standoff.³⁵ This crisis—which also included significant diplomatic

³² Michael Green, Kathleen Hicks, Zack Cooper, John Schaus, and Jake Douglas, *Countering Coercion in Maritime Asia: The Theory and Practice of Gray Zone Deterrence*, Center for Strategic & International Studies (Lanham, MD: Rowman & Littlefield), <https://www.csis.org/analysis/countering-coercion-maritime-asia> (accessed December 22, 2017), 207.

³³ Green, Hicks, Cooper, Schaus, and Douglas, *Countering Coercion in Maritime Asia: The Theory and Practice of Gray Zone Deterrence*, 211-212.

³⁴ *Ibid.*, 218.

³⁵ *Ibid.*, 221.

work between China, Vietnam, and several other states, and sparked massive riots and violent acts against suspected Chinese-owned businesses in Vietnam—is indicative of how China may employ its maritime forces in future conflicts in the South China Sea. Deploying vessels in concentric circles, with PAFMM fishing vessels on the outer circles, followed by CCG, and finally PLAN warships closest to the oil rig, appears to be part of the Chinese risk mitigation strategy to avoid major conflict and potentially exploit gaps in international rules or at least influence international perception by using civilian vessels and non-military government vessels.³⁶

Code for Unplanned Encounters at Sea

One of the international protocols that China may circumvent by using civilian vessels is the Code for Unplanned Engagement at Sea (CUES). At the Western Pacific Naval Symposium in April 2014, representatives from 22 Pacific nations unanimously agreed to implement CUES to establish a standard protocol for safety procedures, communications, and maneuvering for naval ships and aircraft on the high seas.³⁷ The U.S. Navy first used CUES in an interaction with Chinese warships in July 2014, and has several other times since.³⁸ The U.S. Department of Defense (DOD) and China's Ministry of National Defense (MND) also have a memorandum of understanding that codifies rules of behavior. However, while these codes are steps towards procedures to help deescalate potential incidents at sea, they do not cover a few important issues. For instance, CUES is a non-binding agreement that currently applies only to naval ships—not to civilian vessels or government maritime law enforcement vessels—nor does it

³⁶ Ibid., 223.

³⁷ O'Rourke, "Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress," 17.

³⁸ U.S. Department of Defense, *Asia-Pacific Maritime Security Strategy*, August 2015, 31.

address interactions within territorial seas. Both are potential gaps that China might exploit by using the CCG and PAFMM in South China Sea disputes in areas where they dubiously claim territorial seas or EEZs. United States and Chinese officials discussed and committed to pursue an arrangement for the nations' respective Coast Guards similar to the DOD/Chinese MND memorandum of understanding, but have not yet signed an agreement.³⁹

³⁹ O'Rourke, 19.

CHAPTER 3: U.S. FREEDOM OF NAVIGATION OPERATIONS - UTILITY OR STRATEGIC GAP?

“...the United States will continue to sail, fly and operate anywhere that international law allows.”

- President Barack Obama, September 25, 2015¹

The United States has conducted Freedom of Navigation (FON) operations—in which the U.S. Navy has sailed a warship through claimed territorial seas or EEZ to exercise rights of freedom of navigation under international law—against the excessive claims of several South China Sea nations. Conducting FON operations allows the United States to exercise its ability to navigate freely in waters claimed by coastal states and maintains a precedent for its interpretation of international rules governing freedom of navigation. Examining the U.S. Navy’s activities in the South China Sea, and response from the PLAN or other maritime agencies may indicate whether there are mismatches in U.S. and Chinese activity and potential for negative consequences for U.S. strategy.

Freedom of Navigation (FON) Operations History & Background

The United States implemented its FON program in 1979, and each year conducts a variety of operations based on principle and law around the globe to challenge excessive maritime claims.² President Ronald Reagan announced in 1983 that the United States would promote and protect its interests consistent with the provisions of the UNCLOS.³ President Reagan specifically noted the United States would exercise and assert navigation rights and would not “acquiesce in unilateral acts of other states

¹ The White House, Remarks by President Obama and President Xi Jinping 25 September 2015.

² U.S. Department of Defense, Freedom of Navigation (FON) Program-Fact Sheet, <http://policy.defense.gov/OUSDP-Offices/FON/>, 1.

³ Though the United States has not ratified the UNCLOS due to concerns over certain provisions on seabed mining, it follows all other provisions of the Convention in practice, which incorporates earlier international treaties and law to which the United States has long subscribed.

designed to restrict the rights and freedoms of the international community in navigation and overflight and other related high seas uses.”⁴ This statement remains critical to U.S. efforts to protect freedom of navigation. The risk in not challenging excessive claims lies in the potential for precedent legitimizing the claims and leading to de facto changes in customary international law.⁵

The U.S. FON Program consists of a dual approach to asserting U.S. interests at sea with operational assertions conducted by U.S. military forces and U.S. Department of State activities, usually in the form of a demarche or other diplomatic communication.⁶ Military forces conducting FON assertions to challenge excessive maritime claims do so lawfully, responsibly, and “even-handed[ly]” using both planned operations with the primary purpose of challenging a certain maritime claim, and as part of other operations that have some other primary purpose plus a secondary effect of challenging claims.⁷

The DOD documents each fiscal year’s FON assertions in an annual report. For instance, in Fiscal Year 2016 the DOD conducted FON operations that challenged 22 nations on a variety of excessive claims, including:

- Brazil – Consent required for military exercises or maneuvers in the EEZ;
- Iran – Restrictions on right of transit passage through the Strait of Hormuz; prohibition on foreign military activities in the EEZ;
- Italy – Claimed historic bay status for Gulf of Taranto;
- Japan – Excessive straight baselines;
- Malaysia – Prior authorization required for nuclear-powered ships to enter the territorial sea;
- The Philippines – Claimed archipelagic waters as internal waters.⁸

⁴ President Ronald Reagan, Statement on the United States Oceans Policy, March 10, 1983, <https://www.state.gov/documents/organization/143224.pdf>, accessed December 27 2017.

⁵ Jonathan G. Odom, “How the U.S. FON Program is Lawful and Legitimate,” Center for Strategic and International Studies, Asia Maritime Transparency Initiative, October 30, 2015, <https://amti.csis.org/how-the-u-s-fon-program-is-lawful-and-legitimate/> (accessed December 21, 2017), 3.

⁶ U.S. DOD, FON Fact Sheet, 1.

⁷ U.S. DOD, FON Fact Sheet, 2.

⁸ Ibid., 1-2.

It is important to note that the United States conducts FON operations against excessive claims of allied, adversary, and competitor nations alike. Even though the assertions are by nature “confrontational,” they are not designed to be provocative or to elicit an aggressive or violent response.⁹ According to then-Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs John D. Negroponte, the exercise of freedom of navigation rights is a “...legitimate, peaceful assertion of a legal position...” if conducted in accordance with the framework of international law.¹⁰ By conducting FON operations against excessive maritime claims around the world, for various reasons, and regardless of the “friendliness” of diplomatic relations, the United States demonstrates its “evenhanded” approach to asserting freedom of navigation.

U.S. FON Operations in the South China Sea

Since October 2015, the United States has conducted at least nine FON operations to assert navigation rights against excessive Chinese maritime claims. The rate of FON assertions in the South China Sea increased in 2017 and it appears the Trump Administration may have implemented a schedule, with an operation about every two months since May 2017, alternating between the Spratly and Paracel Islands (Table 1).

⁹ Benjamin K. Wagner, “Lessons from Lassen: Plotting a Proper Course for Freedom of Navigation Operations in the South China Sea,” *Journal of East Asia & International Law* 9, no. 1, (2016), <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=ofs&AN=116510648&site=eds-live&scope=site> (accessed October 20, 2017), 142.

¹⁰ John D. Negroponte, *Who Will Protect Freedom of the Seas?*, Washington, D.C.: U.S. Dept. of State, Bureau of Public Affairs, Office of Public Communication, Editorial Division (1986), <https://catalog.hathitrust.org/Record/100755161> (accessed December 28, 2017), 3.

Date	Ship Conducting (USS)	Location	Excessive Claim	PRC Operational Response
27-Oct-2015	LASSEN	Spratly Islands ¹	Advance notification of innocent passage	PLAN warship (2) shadowed; Maritime Militia presence
29-Jan-2016	CURTIS WILBUR	Paracel Islands ²	Advance notification of innocent passage	None
10-May-2016	WILLIAM P LAWRENCE	Spratly Islands ³	Advance notification of innocent passage	PLAN warship (3) shadowed; Fighters (2) scrambled
21-Oct-2016	DECATUR	Paracel Islands ⁴	Excessive straight baselines	PLAN warship (2) shadowed
24-May-2017	DEWEY	Spratly Islands ⁵	Illegal territorial sea	PLAN warship (2) shadowed
2-Jul-2017	STETHEM	Paracel Islands ²	Advance notification of innocent passage	PLAN warship (1) shadowed
10-Aug-2017	JOHN S MCCAIN	Spratly Islands ⁵	Illegal territorial sea	PLAN warship (2) shadowed
11-Oct-2017	CHAFEE	Paracel Islands ⁴	Excessive straight baselines	PLAN warship (1) shadowed; Fighters (2) scrambled; Helicopter (1) scrambled.
17-Jan-2018	HOPPER	Spratly Islands ⁶	Advance notification of innocent passage	PLAN warship (1) shadowed
23-Mar-2018	MUSTIN	Spratly Islands ⁵	Illegal territorial sea	PLAN warships (2) shadowed
Note 1: Within 12 nautical miles (NM) of five features claimed by several South China Sea nations.				
Note 2: Within 12 NM of Triton Island.				
Note 3: Within 12 NM of Fiery Cross Reef (Chinese outpost/artificial island).				
Note 4: On the high seas, through Chinese-claimed straight baselines, but outside 12 NM from any feature.				
Note 5: Within 12 NM of Mischief Reef (Chinese outpost/artificial island).				
Note 6: Within 12 NM of Scarborough Shoal.				

Table 1, U.S. Freedom of Navigation Operations in the South China Sea 2015-early 2018

The excessive claim against which the United States has conducted the most FON operations in the South China Sea is China's domestic law requiring advance notice of such transits through territorial sea. The United States' position is that coastal states do not have the authority to impose notification or authorization requirements on foreign warships exercising the right of innocent passage.¹¹ A similar claim is China's assertion that it must first authorize military activities conducted within its claimed EEZ. The United States argues UNCLOS Article 87 protects appropriate military activities, which

¹¹ Kuok, Lynn, *The U.S. FON Program in the South China Sea: A Lawful and Necessary Response to China's Strategic Ambiguity*, Brookings Institute Center for East Asia Policy Studies, East Asia Policy Paper 9 (June 2016), <https://www.brookings.edu/wp.../The-US-FON-Program-in-the-South-China-Sea.pdf>, (accessed December 21, 2017), 6-11.

include launching and recovering aircraft, collecting intelligence, conducting surveys, firing weapons, and operating military devices.¹²

China also claims straight baselines around some features, including the Parcel Islands. Coastal states with deeply indented coastlines or with fringes of islands along their coast may draw straight baselines from appropriate points of land to determine territorial seas. However, these straight baselines may not be “drawn to or from low-tide elevations [LTE], unless lighthouses or similar installations which are permanently above sea level have been built on them or ...[when] elevations [have]...received general international recognition.”¹³ Acquiescing to China’s excessive claims around LTE might eventually result in “general international recognition” of the claims.

From 2015 to mid-2017, U.S. FON operations in the South China Sea were all “innocent passage” transits through territorial sea or the high seas (EEZ), even when they challenged other excessive claims. However, the United States conducted at least two operations in 2017 and 2018 when ships sailed within 12 nautical miles (NM) of artificial islands not entitled territorial seas or EEZs. U.S. warships were not conducting “innocent passage” during these operations. This change in FON assertion may signal a modification in the U.S. approach to countering South China Sea territorial claims.

U.S. Navy Activities during Specific South China Sea FON Operations

Eleanor Freund wrote an interesting primer on U.S. FON operations in the South China Sea, in which she examined five assertions from 2015 to 2017. Briefly summarizing her description of some of these operations will set up a discussion of the utility of U.S. FON assertions to achieving strategic goals in the South China Sea.

¹² Ibid., 9.

¹³ UNCLOS Article 7.

USS LASSEN in the Spratly Islands – Innocent Passage

On October 27, 2015, guided missile destroyer USS LASSEN (DDG 82) conducted a FON assertion in the Spratly Islands to challenge the requirements of three nations—China, Vietnam, and Taiwan—for advance notification or permission for warships to conduct innocent passage. The ship sailed within 12 NM of five Spratly Island features, including Subi Reef, Northeast Cay, Southwest Cay, South Reef, and Sandy Cay.¹⁴ Though the United States did not notify any of the claimant nations prior to the operation, months of deliberation about the merits of conducting FON near a Chinese artificial island, and an alleged notification to the Chinese by a U.S. official may have amounted to “de facto notice.”¹⁵ In addition to PLAN warships, several maritime militia vessels responded to the transit. The militia ships maneuvered around and crossed the destroyer’s bow at a distance that did not require the ship to alter course.¹⁶

A Chinese spokesperson issued a complaint, but did not mention any claimed territorial sea around Subi Reef, and rather stressed the “threats” to China’s sovereignty and security interests.¹⁷ An interesting aspect of this particular operation was the apparent confusion among U.S. officials on its justification (innocent passage). International law

¹⁴ Eleanor Freund, “Freedom of Navigation in the South China Sea: A Practical Guide,” Harvard Kennedy School, Belfer Center for Science and International Affairs, Special Report (June 2017), 27.

¹⁵ Raul Pedrozo and James Kraska, “Can’t Anybody Play This Game? US FON Operations and Law of the Sea,” *Lawfare*, November 17, 2015, <https://www.lawfareblog.com/cant-anybody-play-game-us-fon-operations-and-law-sea> (accessed December 28, 2017); Benjamin K Wagner, “Lessons from Lassen: Plotting a Proper Course for Freedom of Navigation Operations in the South China Sea,” *Journal of East Asia & International Law* 9, no. 1 (2016), <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=ofs&AN=116510648&site=eds-live&scope=site> (accessed October 20, 2017), 142.

¹⁶ Christopher Cavas, “China’s ‘Little Blue Men’ Take Navy’s Place in Disputes,” *Defense News*, November 2, 2015, <https://www.defensenews.com/naval/2015/11/03/chinas-little-blue-men-take-navys-place-in-disputes/> (accessed December 28, 2017).

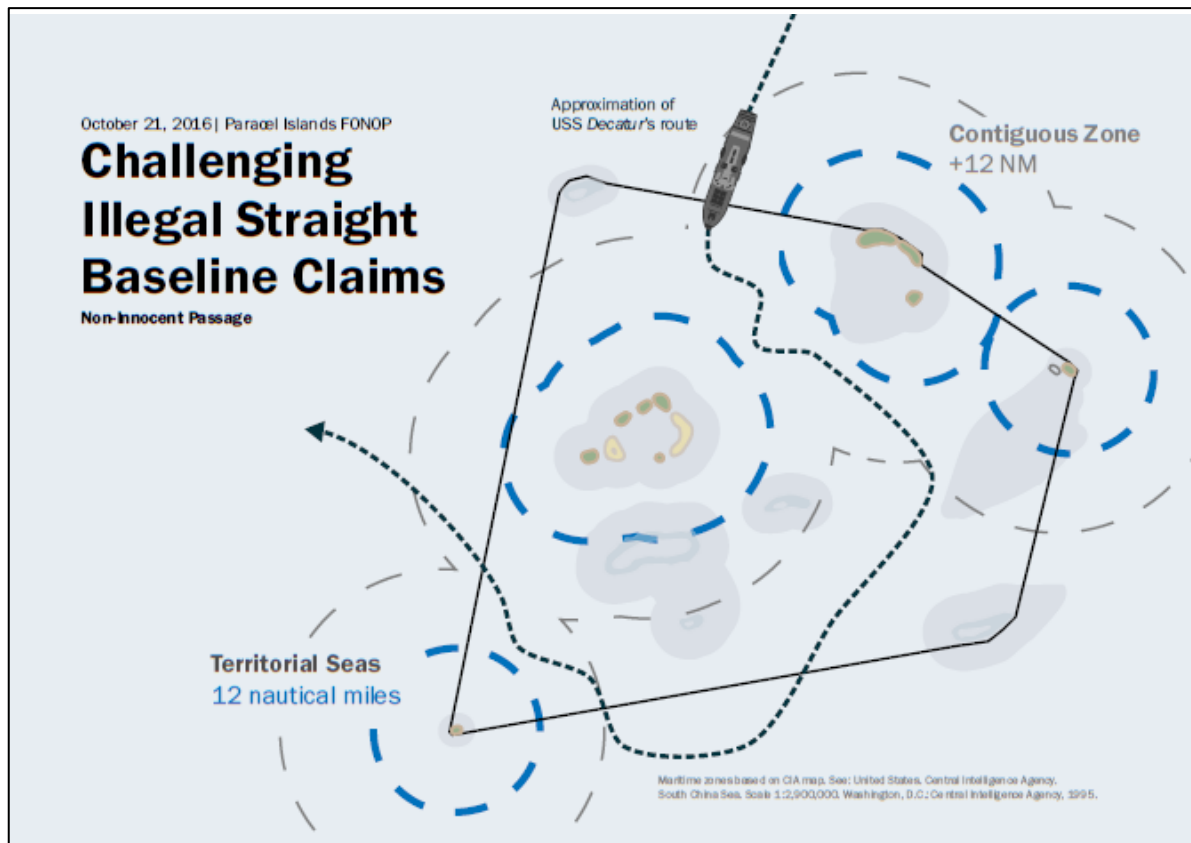
¹⁷ Xinjun Zhang, “The Latest Developments of the US Freedom of Navigation Programs in the South China Sea: Deregulation or Re-Balance?,” *Journal of East Asia & International Law* 9, no. 1 (2016), <https://nduezproxy.idm.oclc.org/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=ofs&AN=116510649&site=eds-live&scope=site>, (accessed October 20, 2017), 174.

scholars Raul Pedrozo and James Kraska argue that the operation could not have been an innocent passage, because Subi Reef—once a low tide elevation (LTE) before China built an artificial island on it—does not generate its own territorial sea under UNCLOS.¹⁸ While some experts argue Subi Reef’s proximity to Sandy Cay could allow the LTE to extend the territorial sea from the reef as if it were a rock, this argument would also require that Sandy Cay be considered 1) an island and 2) to have recognized sovereignty. Sandy Cay is or has neither, because none of the features in the Spratlys are islands under the UNCLOS.¹⁹ Nearly two months after a request for clarification by Senator John McCain, then-Secretary of Defense Ash Carter stated that the United States conducted the FON assertion “in a manner that is lawful under all possible scenarios to preserve U.S. options should the factual ambiguities be resolved, disputes settled, and clarity on maritime claims reached.”²⁰ This argument seems to indicate that while the U.S. official position is that the operation was aimed at the excessive claims for prior notification and not intended to dispute any claims to sovereignty, it might also have had a secondary purpose of preventing a precedent that artificial islands could generate a territorial sea.

¹⁸ Pedrozo and Kraska, “Can’t Anybody Play This Game?”

¹⁹ Ibid.

²⁰ Ashton Carter, “Document: SECDEF Carter Letter to McCain on South China Sea Freedom of Navigation Operation,” Letter dated December 22, 2015, website date January 5, 2016, <https://news.usni.org/2016/01/05/document-secdef-carter-letter-to-mccain-on-south-china-sea-freedom-of-navigation-operation> (accessed December 28, 2017).



“Challenging Illegal Straight Baseline Claims” from Eleanor Freund, “Freedom of Navigation in the South China Sea: A Practical Guide,” Harvard Kennedy School, Belfer Center for Science and International Affairs, Special Report (June 2017), 38.

USS DECATUR in the Paracel Islands – Excessive Straight Baselines

The United States conducted a FON operation on October 21, 2016 in the Paracel Islands to assert navigation rights against excessive straight baselines. China, Vietnam, and Taiwan all claim the Paracels, but China has outposts on some islands, including an airstrip and reportedly surface to air missiles. China claims straight baselines drawn from 28 points around the islands and considers the area inside the dubiously drawn lines as internal waters.²¹ USS DECATUR sailed through the claimed straight baselines and

²¹ Idrees Ali and Matt Spetalnick, “U.S. Warship Challenges China's claims in South China Sea,” Reuters, October 21, 2016, <https://www.reuters.com/article/us-southchinasea-usa-exclusive/u-s-warship->

conducted maneuvering drills through the claimed internal waters within the excessive baselines, but outside of the 12 NM territorial sea from the islands.²² The destroyer's maneuvering indicated the transit was not innocent passage.²³ Two PLAN warships escorted DECATUR without incident.²⁴

Utility and Gaps of FON in the South China Sea

The United States' FON program is one part of the national effort towards protecting U.S. strategic interests in the South China Sea. FON operations have particular usefulness in maintaining freedom of navigation by indicating the United States' refusal to acquiesce to excessive claims in the area, without causing any major provocation to date.²⁵ However, U.S. FON operations have yet to achieve changes in China's behavior, evidenced by Chinese reactions to the operations and continued "island reclamation" and infrastructure improvement on artificial islands. Though FON operations are a signaling measure to assert navigation rights and not intended as a show of force, there are important optics for the United States to consider because they use military forces. FON operations have little utility on their own and must be coupled with other elements of national power and combined with other uses of military forces to achieve U.S. interests of preventing the rise of a regional hegemon and maintaining regional stability.

Several experts have recommended proposals to improve the utility of U.S. FON operations, including improving their consistency, ensuring clarity in legal justification,

challenges-chinas-claims-in-south-china-sea-idUSKCN12L109 (accessed December 28, 2017); Freund, "Freedom of Navigation in the South China Sea," 40.

²² Freund., 40.

²³ UNCLOS Article 19 defines innocent passage as being conducted expeditiously, and prohibits ships from conducting operations that are "...not prejudicial to the peace, good order or security of the coastal State..." including threats of force, exercising weapons, launching aircraft or other "military devices," conducting acts of propaganda, fishing, or other activities not having a direct bearing on passage.

²⁴ Ali and Spetalnick, "U.S. Warship Challenges China's Claims in South China Sea."

²⁵ Wagner, "Lessons from Lassen," 165.

decreasing the publicity of operations prior to executing them, and improving engagement with other nations to increase their support for and encourage their own assertions of navigation rights. These improvements are important and the United States should continue to implement them in future operations.

Improve Consistency

Until late 2016, U.S. FON operations in the South China Sea were sporadic and inconsistent, and the final decision to conduct them often hinged on current political concerns. The significant increase in the frequency and apparent implementation of a schedule under the Trump Administration indicate the United States is planning a more consistent and predetermined assertion of navigation rights.²⁶ Consistent and apolitical planning of FON operations bolsters the U.S. argument that it conducts assertions in an even-handed manner against the excessive claims of other South China Sea nations, not just China.²⁷

Balance Clarity & Transparency

Pedrozo and Kraska argue that the clarity of the United States' legal justification for challenging excessive maritime claims is critical, and that a lack of understanding of the law of the sea and confusion in U.S. explanation and communication of its reasoning plays into China's "strategic ambiguity" in the South China Sea.²⁸ Similarly, Lynn Kuok argues lack of clarity in asserting navigation rights may cause a "step backwards" if

²⁶ See Table 1; Gordon Lubold and Jeremy Page, "U.S. to Challenge China with More Patrols in Disputed Waters," *The Wall Street Journal*, September 1, 2017, <https://www.wsj.com/articles/u-s-readies-plan-to-increase-patrols-in-south-china-sea-1504299067> (accessed December 28, 2017).

²⁷ Ankit Panda, "A FONOP Schedule in the South China Sea: What Next?," September 11, 2017, *The Diplomat*, <https://thediplomat.com/2017/09/a-fonop-schedule-in-the-south-china-sea-what-next/> (accessed October 20, 2017).

²⁸ Pedrozo and Kraska, "Can't Anybody Play This Game?"

media outlets get the message wrong or make escalatory claims.²⁹ She highlights the USS LASSEN operation as the most notable example of failed messaging, particularly delays in providing clear justification. In contrast, the DOD better handled operations conducted by USS CURTIS WILBUR and USS WILLIAM P LAWRENCE and provided clear and timely statements about the events.³⁰ Other experts argue the publicity given to FON operations has negative effects. Julian Ku and M. Taylor Fravel note that because Chinese officials incorrectly see FON operations as direct challenges to sovereignty claims, publicity surrounding the operations forces both rhetorical and operational responses in order to avoid losing face. They also argue that publicity creates incentives for China to engage with the United States on very narrow interpretations of the law of the sea, which could weaken the U.S. argument.³¹ A key component to future operations will be clarity in understanding and communicating legal justifications while maintaining appropriate levels of transparency, operational security, and discretion.

Encourage Partner Nation FON Cooperation

A significant weakness in the U.S. FON program to date is that the United States has been the only country willing to conduct assertions in the South China Sea.³² Though several international partners—including Vietnam, The Philippines, Malaysia, Singapore, and Japan—have expressed approval and support to U.S. operations, few have conducted their own operations.³³ Participation from other partners in FON operations will improve

²⁹ Kuok, *The U.S. FON Program in the South China Sea*, 23.

³⁰ Kuok, 23.

³¹ Julian G. Ku, M. Taylor Fravel, and Malcolm Cook, “Freedom of Navigation Operations in the South China Sea Aren’t Enough,” *Foreign Policy*, May 16, 2016, <http://foreignpolicy.com/2016/05/16/freedom-of-navigation-operations-in-the-south-china-sea-arent-enough-unclos-fonop-philippines-tribunal/> (accessed October 20, 2017).

³² Ku, Fravel, and Cook, “Freedom of Navigation Operations in the South China Sea Aren’t Enough.”

³³ Kuok, 15-16.

the multilateral approach to the problem. The United Kingdom announced in February 2018 its intent to conduct an assertion using a Royal Navy destroyer.³⁴ Japan and Australia are two other nations with the capability to conduct FON operations. One option may be for Australian or Japanese ships to accompany U.S. ships on an operation to assert navigation rights against excessive claims of several nations in the South China Sea.³⁵ Improving engagement with and persuading other states to conduct their own or combined FON assertions will likely strengthen the international rules-based order.

Improve Operational Optics

Another shortfall in U.S. FON operations is the potential for China to induce mismatches in capability and exploit gaps in the CUES protocol by using CCG or PAFMM vessels to shadow or harass U.S. Navy warships. As the PLAN and CCG raise their fleet capabilities, and the PLAN increases power projection in the “far seas,” the CCG might take on the primary responsibility of responding to U.S. FON operations in the “near seas.” The “optics” or appearance of a U.S. guided missile destroyer escorted by a more lightly armed CCG cutter may diminish international perceptions of the legitimacy of U.S. FON operations, as China can claim to be enforcing its borders against intrusion from a foreign warship.³⁶ A potentially more dangerous problem previously noted in chapter 2 is that the CUES adopted by ASEAN nations as the protocol for communications and interactions between warships currently does not apply to civilian

³⁴ “USS Hopper Passes Near Scarborough Shoal,” The Maritime Executive, <https://www.maritime-executive.com/article/uss-hopper-passes-near-scarborough-shoal#gs.flM7Axc> (accessed February 16, 2018).

³⁵ Rod Lyon, “Misoverestimating Freedom-of-Navigation Operations,” The Strategist, Australian Strategic Policy Institute, <https://www.aspistrategist.org.au/misoverestimating-freedom-navigation-operations/> (accessed December 28, 2017).

³⁶ Tyler Rogoway, “Why China is Building the World’s Largest ‘Coast Guard’ Cutter,” Foxtro Alpha, January 6, 2015, <https://foxtrotalpha.jalopnik.com/why-china-is-building-the-worlds-largest-coast-guard-1677699141> (accessed December 29, 2017).

ships, which includes PAFMM vessels. While open-source reports indicate that only one U.S. warship has encountered militia vessels to date, the higher frequency of U.S. assertions in the South China Sea, rising capabilities of the CCG, and potential for the CCG to take on greater rights protection duties as the PLAN projects power into the “far seas” may result in interactions between U.S. Navy warships and CCG ships. CUES should apply to CCG vessels in the future as it reorganizes and restructures as a military organization, but there remains a significant capability gap between U.S. Navy warships and CCG ships, which could have negative consequences for U.S. efforts.

Can the U.S. Coast Guard Help Mitigate Strategic Gaps?

The U.S. FON program is a critical part of protecting U.S. strategic interests around the world. However, it is only one part of ensuring freedom of navigation, maintaining regional stability, and preventing regional hegemony in the South China Sea. Achieving U.S. strategic goals and protecting U.S. interests requires additional operational efforts beyond FON assertions, specifically to fill potential gaps created by China’s use of the CCG and PAFMM to protect their claims and to encourage engagement from international partners in maintaining stability and preventing regional hegemony in the South China Sea. The U.S. Coast Guard can support DOD lines of effort towards advancing U.S. strategic interests and mitigate gaps in international perception of U.S. FON operations and legitimacy.

CHAPTER 4: U.S. COAST GUARD – A UNIQUE INSTRUMENT OF U.S. NATIONAL POWER

“The Coast Guard occupies a peculiar position among other branches of the Government, and necessarily so from the dual character of its work, which is both civil and military...practical experience has demonstrated that it is by means of military drills, training, and discipline that the service is enabled to maintain that state of preparedness for the prompt performance of its most important civil duties, which...are largely of an emergent nature.”

- Captain-Commandant Ellsworth Bertholf, Testimony to the U.S. Congress, 1915¹

U.S. Coast Guard as Military and Law Enforcement Agency

The history of the U.S. Coast Guard and the evolution of its missions, capabilities, authorities, and exploits during U.S. war efforts provide interesting and important context for an examination of the utility of the Service in the South China Sea. While indicative of the wide variety of missions for which it is responsible, the name “Coast Guard” may be a bit misleading. At all times a military service and law enforcement agency, the USCG has a unique set of authorities, roles, and responsibilities.² The USCG is the United States’ lead agency for maritime security, enforces all applicable federal laws on, under, and over the high seas and waters subject to the United States, and assists other federal agencies, including the Department of Defense, for performance of activities for which the Coast Guard is especially qualified.³ Further, the Coast Guard is required to maintain a state of readiness to function with the U.S. Navy, and shall transfer to and operate as a service within the Navy upon declaration of war or when directed by the President.⁴ The USCG’s combination of military and defense capability, law enforcement

¹ Robert Erwin Johnson, *Guardians of the Sea* (Annapolis: U.S. Naval Institute Press, 1987), 33.

² 14 USC § 1.

³ 14 USC § 141.

⁴ 14 USC § 2.

authority, and experience working with international navy and coast guard partners make it an appropriate choice for supporting U.S. strategic interests in the South China Sea.

U.S. Coast Guard History & Evolution of Missions & Authorities

The USCG traces its history to 1790 when Alexander Hamilton—the first Secretary of the Treasury and “Father of the U.S. Coast Guard”—proposed a “Revenue Marine” to help meet the financial needs of the fledgling nation by generating income on customs duties and tonnage taxes on foreign goods and ships.⁵ The First Congress of the United States authorized the building of ten cutters and personnel consisting of 80 men and 20 boys.⁶ Designed and organized as a military service, Revenue Marine cutters were the United States’ only armed ships for nearly seven years following the disbanding of the Continental Navy after the Revolutionary War, leading to the Coast Guard’s claim today as the United States’ “Oldest Continuous Sea Going Service.”⁷

As the United States matured and evolved as a nation, so did the missions of the Revenue Cutter Service (RCS).⁸ Through the 19th Century, the RCS took on responsibilities for search and rescue, surveying coastal waters, conducting civil and humanitarian operations and scientific expeditions, and establishing federal government authority in Alaska.⁹ Maritime governance functions and authorities followed, including

⁵ U.S. Coast Guard, *Doctrine for the U.S. Coast Guard*, Coast Guard Pub. 1, February 2014, 28.

⁶ The Act to Provide More Effectually for the Collection of the Duties Imposed by Law on Goods, Wares, and Merchandise Imported into the United States, and on the Tonnage of Ships or Vessels, August 4, 1790 (1 Stat. L., 145, 175).

⁷ U.S. Coast Guard, *Publication 1*, 29.

⁸ The service did not have an official name in its first sixty-plus years, with the terms “Revenue Marine” and “Revenue Cutter Service” used interchangeably. Congress’ *An Act in Relation to Commissioned Officers of the United States Revenue Cutter Service* officially named the service in 1863.

⁹ *Ibid.*, 30.

port regulation, domestic recreational boating safety, marine resource protection, and North Atlantic ice patrol duties following the Titanic disaster.¹⁰

Ironically, the establishment of the “U.S. Coast Guard” began with a movement to abolish the RCS. Several conclusions of the Cleveland Commission—appointed by President Taft in 1911 to improve government efficiency—recommended transferring RCS duties to other agencies and moving larger cutters and crews to the Navy.¹¹ These proposals met significant opposition. While Secretary of the Navy George Meyer wanted cutters for the Navy’s fleet, he did not want to take on RCS duties.¹² Secretary of the Treasury Franklin MacVeigh adamantly opposed the abolishment of the RCS, and ordered RCS Captain-Commandant Ellsworth P. Bertholf and Sumner Kimball—the head of the Life-Saving Service—to draft a proposal to merge the two services into one agency. In January 1915, Congress passed legislation to create the U.S. Coast Guard.¹³

The Coast Guard absorbed the U.S. Lighthouse Service and its aids to navigation responsibilities in 1939, then the Bureau of Marine Inspection and Navigation in 1946, which gave the Coast Guard greater regulation duties over civilian shipping.¹⁴ The continued expansion of civil duties—many of which pertained to the nation’s transportation infrastructure and regulation, including environmental protection following several oil tanker incidents—resulted in the Service’s incorporation into the newly formed Department of Transportation in 1967.¹⁵

¹⁰ Ibid., 36.

¹¹ Ibid., 37-38.

¹² Robert Erwin Johnson, *Guardians of the Sea* (Annapolis: U.S. Naval Institute Press, 1987), 20.

¹³ Ibid., 32.

¹⁴ U.S. Coast Guard, *Publication 1*, 30-31, 44, 48.

¹⁵ U.S. Coast Guard, *Publication 1*, 51; Johnson, *Guardians of the Sea*, 340-343.

The 1960s-1990s saw a significant increase in the Coast Guard's maritime law enforcement duties. The 1976 Magnuson-Stevens Fisheries Conservation and Management Act established the United States' 200 nautical mile EEZ, and the USCG gained its enforcement duties.¹⁶ Migrant interdiction became a regular mission, with several mass migrations from Cuba and Haiti occurring in the late 1980s and early 1990s.¹⁷ Counterdrug efforts increased and remain one of the Coast Guard's top priorities at sea, with today's efforts focused in the Eastern Pacific and Caribbean as part of the Service's strategy to combat trafficking in the Western Hemisphere approaches.

The terrorist attacks of September 11, 2001 spurred the next major evolution in the Coast Guard's missions, roles, authorities, capabilities, and organization. The Service again changed Cabinet Departments with the Homeland Security Act of 2002, and became a member of the U.S. Intelligence Community in 2003.¹⁸ Today, the Coast Guard continues its service to nation as a multi-mission military organization with unique authorities, competencies, and partnerships that provide the President, Secretary of Homeland Security, Secretary of Defense, and Combatant Commanders great capability to conduct a variety of homeland security and national defense missions.¹⁹

Coast Guard National Defense and Wartime Operations

The Coast Guard has been involved in every war the United States has fought since its inception as the Revenue Marine in 1790. Revenue Cutters fought during the Quasi-War with France, captured the first British prize during the War of 1812, conducted littoral operations in the Seminole Wars from 1836-1839, supported

¹⁶ U.S. Coast Guard, *Publication 1*, 54.

¹⁷ *Ibid.*, 51.

¹⁸ U.S. Coast Guard, *Publication 1*, 55.

¹⁹ *Ibid.*, 1.

amphibious landings in the Mexican War of 1846-1848, fired the first naval shots of the Civil War at Fort Sumter, and performed Cuban blockade duty and served with the Asiatic Squadron in the Philippines during the Spanish-American War.²⁰

The Coast Guard transferred to the Navy for the first time during World War I. Larger Coast Guard cutters conducted convoy escort duty from Gibraltar to the United Kingdom.²¹ The loss of cutter *Tampa* with all hands—111 Coast Guardsmen and four Navy sailors—to a submarine attack shortly after the cutter completed her 18th convoy escort in eight months was the Service's greatest loss of life during the war.²²

In the buildup to World War II, the Coast Guard took on Greenland Patrol responsibilities to mitigate U.S. government concerns that Germany would establish a major military presence on the island. The State Department warned stationing military forces in Greenland might be too provocative, but deemed deploying the Coast Guard a more acceptable risk. President Roosevelt noted the international ice patrol would provide good cover for the efforts to counter German forces in Greenland.²³ In November 1941, the Coast Guard transferred to the Navy Department again—to date the last transfer of the Service during wartime—and performed combat and support duties, manned destroyers, frigates, and transport ships, and participated in every major amphibious operation including the invasions of Guadalcanal, Normandy, and the Philippines.²⁴

The Coast Guard increased air search and rescue capabilities in the Western Pacific during the Korean War, though no major cutter participated in combat.²⁵ The

²⁰ Ibid., 29, 30; Stephen H. Evans, *The United States Coast Guard, 1790-1915: A Definitive History* (Annapolis: U.S. Naval Institute, 1949), 75.

²¹ Johnson, *Guardians of the Sea*, 46, 51-53.

²² Ibid., 55.

²³ U.S. Coast Guard, *Publication 1*, 44; Johnson, *Guardians of the Sea*, 185.

²⁴ U.S. Coast Guard, *Publication 1*, 45.

²⁵ Johnson, *Guardians of the Sea*, 285.

Service took on an interesting role during the Cold War when the State Department wanted to station a ship in a Mediterranean port to relay Voice of America into Soviet states. Cold War tensions apparently precluded using a U.S. Navy ship for this mission, but as one Coast Guard captain noted, "...no one could take offense at the Coast Guard in an area where there were touchy political difficulties because we had no record of being spies."²⁶ The cutter *Courier* supported this mission in the Greek port of Rhodes from 1952-1964. The Vietnam War saw a return of major Coast Guard cutters in combat roles, as five large cutters and 26 smaller patrol cutters supported Operation Market Time. The cutters interdicted North Vietnam's maritime supply routes, boarded nearly 250,000 vessels, and destroyed 1,800 craft carrying North Vietnamese equipment and supplies.²⁷

During Operation Desert Shield and Desert Storm, Coast Guard Port Security Units protected port infrastructure in Kuwait, and maritime patrol aircraft equipped with specialized imagery equipment located damaged oil infrastructure in Iraq. Ten *Island*-class Coast Guard cutters deployed to the Mediterranean Sea and Arabian Gulf to support Operation Enduring Freedom and Iraqi Freedom, and six remain deployed permanently to U.S. Central Command as U.S. Coast Guard Patrol Forces Southwest Asia.

USCG Engagement in International Exercises

Today's USCG has wide-ranging missions and authorities, built upon a long history of contributions to national defense efforts, often in expeditionary roles. Major international military exercises like exercise Rim of the Pacific, PANAMAX, UNITAS, and the Africa Maritime Law Enforcement Partnership, may serve as models for the best application of the Coast Guard to support U.S. interests in the South China Sea.

²⁶ Ibid., 285.

²⁷ U.S. Coast Guard, *Publication 1*, 50.

Rim of the Pacific

First held in 1971 and hosted biennially by the U.S. Navy Pacific Fleet, Exercise Rim of the Pacific (RIMPAC) is the world's largest international maritime exercise. RIMPAC provides international participants—in 2016 consisting of nearly fifty surface ships and submarines, 200 aircraft, and 25,000 personnel from 26 nations—a unique training opportunity that fosters and sustains cooperative relationships critical to the safety of sea lanes and security on the world's oceans.²⁸ RIMPAC exercises span the range of maritime operations including complex anti-submarine, surface, and air warfare evolutions, amphibious operations, counter-piracy, disaster relief, and sea control.²⁹

U.S. Coast Guard cutters have had increasing roles and responsibilities during RIMPAC, including the assignment of *Legend*-Class National Security Cutters USCGC BERTHOLF (WMSL 750) and USCGC WAESCHE (WMSL 751) as commanders of combined surface task forces (CTF) in 2012 and 2014, respectively.³⁰ BERTHOLF's command cadre reported commanding a surface action group consisting of three Russian warships and two U.S. Navy warships during maritime close air support, naval surface fire support, small vessel attack, and interdiction exercises demonstrated the utility of this class of cutter to defense operations and partner nation engagement.³¹ USCGC WAESCHE also reported successful demonstration of Coast Guard capability as

²⁸ U.S. 3rd Fleet Public Affairs, "27 Nations to Participate in World's Largest Maritime Exercise," <http://www.cpf.navy.mil/news.aspx/040030>, accessed December 19, 2017.

²⁹ U.S. 3rd Fleet, "27 Nations."

³⁰ U.S. Coast Guard, USCGC BERTHOLF, 2012, 030613Z NOV 12, "SUBJ: USCGC BERTHOLF DEPLOYMENT SUMMARY 20JUN12-21JUL12; RIMPAC," 6; U.S. Coast Guard, USCGC WAESCHE, 2014, 070139Z AUG 14 "SUBJ: USCGC WAESCHE PHASE 2 OF 3 DEPLOYMENT SUMMARY 17JUN14-01AUG14 RIMPAC," 6.

³¹ USCGC BERTHOLF, "Deployment Summary," 9.

commander of a task force and interoperability with multinational forces, including flight operations with helicopters from China, Chile, Japan, and Australia.³²

RIMPAC is a valuable model for analyzing the utility of USCG capabilities in complex environments. Repeated success while leading coalition partners and operating with major combatants of Asia-Pacific navies demonstrates value the USCG would bring in law enforcement, surveillance, and defense missions in the South China Sea.

PANAMAX & UNITAS

Fuerzas Aliadas PANAMAX and UNITAS are military exercises held in and around South and Central America that also highlight the USCG's joint and international interoperability. First held in 2003, PANAMAX is the largest theater security cooperation (TSC) in South and Central America, and includes nearly 20 nations conducting joint and combined operations focused on defending the Panama Canal and exercising humanitarian assistance response.³³ Like the South China Sea and the Strait of Malacca, the Panama Canal is a strategic sea line of communication, with about six percent of the world's trade passing through the canal every year aboard more than 14,000 ships.³⁴ UNITAS is a U.S. Southern Command (SOUTHCOM)-sponsored multinational military exercise held to improve coalition forces defense, freedom of navigation, and maritime law enforcement interoperability.³⁵ The Coast Guard deploys a major cutter almost annually for both PANAMAX and UNITAS.

³² USCGC WAESCHE, "Deployment Summary," 4.

³³ Robert Ramon, "U.S. Army South, Partner Nations enhance interoperability during PANAMAX 2017 exercise," August 21, 2017, https://www.army.mil/article/192752/us_army_south_partner_nations_enhance_interoperability_during_panamax_2017_exercise.

³⁴ Canal de Panama, "This is the Canal," <https://www.pancanal.com/eng/acp/asi-es-el-canal.html>, accessed December 17, 2017.

³⁵ U.S. Southern Command, "UNITAS 2016," <http://www.southcom.mil/Media/Special-Coverage/UNITAS-2016/>, accessed December 19, 2017; U.S. Coast Guard, USCGC MOHAWK, 2016, "SUBJ: UNITAS 16 After Action Report," 2.

In 2006, USCGC MOHAWK (WMEC 913) supported both PANAMAX and UNITAS, and reported the Pacific Phase—led by the Chilean Navy—included anti-air, surface, anti-submarine, and electronic warfare, search and rescue, and maritime interdiction operations.³⁶ USCGC THETIS (WMEC 910) operated in a surface action group led by a Peruvian commander in 2007, and assisted the Coast Guard’s International Training Division in training over 150 students from 12 partner nations.³⁷ Supporting UNITAS again in 2016, MOHAWK exercised tactical control of eight coalition surface units during the final battle problem, which simulated a guerrilla organization threatening the Panama Canal. MOHAWK led their task group in joint boardings, search and rescue, and capture of the organization’s leadership at sea.³⁸

The USCG usually has five to eight cutters deployed in support of SOUTHCOM and Joint Interagency Task Force-South for counterdrug operations. Although not outside normal geographic operating areas, PANAMAX and UNITAS are good models of USCG engagement with multinational forces in challenging maritime security environments.

Africa Maritime Law Enforcement Partnership

The Africa Maritime Law Enforcement Partnership (AMLEP) is a theater security program within the U.S. Africa Command (AFRICOM) area of responsibility.³⁹ AMLEP supports AFRICOM’s military objectives of interdicting and responding to illicit activities in the Gulf of Guinea, including human, weapons, and drug trafficking, maritime pollution, oil bunkering, piracy/kidnapping, and illegal, unreported, and

³⁶ U.S. Coast Guard, USCGC MOHAWK, 2006, “SUBJ: PATROL SUMMARY – OUT OF HEMISPHERE DEPLOYMENT (JIATF-S PATROL, UNITAS 06 AND PANAMAX 06),” 2.

³⁷ U.S. Coast Guard, USCGC THETIS, 2007, “SUBJ: PATROL SUMMARY, JIATFS AND PANAMAX.”

³⁸ USCGC MOHAWK, “UNITAS 16 After Action Report,” 11.

³⁹ The author deployed aboard USCGC FORWARD (WMEC 911) in support of AMLEP 2011.

unregulated fishing. The United States contributes to stability in West Africa by supporting partner nations' efforts to strengthen their own security and capacity to manage the maritime environment—specifically their EEZ—through combined maritime law enforcement operations.⁴⁰ An important difference relative to RIMPAC, PANAMAX, or UNITAS is that AMLEP is not a training exercise, but rather combined operations aimed at raising the organic capabilities of African partner nations to enforce the rule of law at sea. While USCG teams may provide some training and recommendations on tactics, the focus of AMLEP is to coordinate with host nations and assist their own efforts to bolster the professionalism of law enforcement organizations.

U.S. Coast Guard cutters or U.S. Navy warships supporting the operational phase of AMLEP typically deployed to West Africa for four to six months and worked with several partners during individual national phases, each approximately two weeks long.⁴¹ During each national phase of AMLEP, the U.S. ship embarked an African host nation's law enforcement team and conducted a patrol of their EEZ. Embarking the teams aboard U.S. surface assets with greater seakeeping and sensor capabilities than the smaller ships typically employed by West African nations provided better capability to the host nations to conduct surveillance, monitor, and track vessels.

U.S. Coast Guard cutters and other units supporting AMLEP helped African partner nations in achieving significant results. In 2011, USCGC FORWARD (WMEC 911) supported the maritime law enforcement agencies of Liberia, Senegal, Sierra Leone, The Gambia, Cape Verde, and Guinea. Combined law enforcement teams conducted

⁴⁰ U.S. Africa Command, Africa Maritime Law Enforcement Program (AMLEP), <http://www.africom.mil/what-we-do/security-cooperation/africa-maritime-law-enforcement-partnership-amlep-program>.

⁴¹ U.S. Africa Command, Africa Maritime Law Enforcement Program (AMLEP).

nearly 20 boardings that resulted in the awarding of approximately \$350,000 in fines for fishing and registration violations.⁴² During AMLEP 2016, U.S. and host nations' law enforcement teams conducted an opposed boarding of a pirated oil tanker during which 18 crewmember lives were saved.⁴³ The continued efforts to improve African partner nations' capabilities through this partnership—certainly coupled with greater investment by host nation governments in their maritime law enforcement agencies—led to a significant achievement in AMLEP 2017. U.S. Coast Guard Tactical Law Enforcement Team 406 supported the first trilateral operation between Senegal, Cape Verde, and the United States, as forces from all three nations conducted operations from the Senegal Navy ship FOULADOU and performed 22 boardings.⁴⁴ This major change in the conduct of AMLEP—with host nation teams deploying from their own ships instead of U.S. ships—is an indicator of some success the partnership has achieved towards improving the maritime law enforcement capacity and professionalism of West African nations.

AMLEP is another good model for shaping the potential deployment of USCG forces to support U.S. strategic objectives in the South China Sea. AMLEP's focus on bolstering the capabilities of growing maritime law enforcement agencies in monitoring and operating their EEZ provides a framework for the type of operation in which to leverage USCG capabilities and expertise.

⁴² U.S. Coast Guard, "Africa Partnership Station," Presentation, undated, 1-6.

⁴³ U.S. Africa Command, AMLEP.

⁴⁴ Petty Officer Ford Williams, "Operation Junction Rain 2017 Concludes," U.S. Naval Forces Europe-Africa/U.S. 6th Fleet, September 20, 2017, <http://www.c6f.navy.mil/news/operation-junction-rain-2017-concludes> (accessed December 19, 2017).

USCG Engagement with PRC Maritime Organizations

The USCG's previous engagement with Chinese maritime agencies on other maritime issues is another aspect to consider for potentially leveraging the Service in the South China Sea. As part of the North Pacific Coast Guard Forum, the United States and China worked together to enforce a United Nations moratorium against high seas drift net (HSDN) fishing.⁴⁵ One particular operation provides a good case study of this cooperation. In September 2007, USCGC BOUTWELL—with an embarked China Fisheries Law Enforcement Command (CFLEC) officer—intercepted a fishing vessel that had Chinese markings but was not in CFLEC's registration database.⁴⁶ The CFLEC boarding officer determined the vessel had false markings to hide its identity while fishing illegally, and found its holds were full of illegal catch. The combined boarding team seized the vessel under CFLEC authorization and the Chinese government prosecuted the vessel's owner. Ultimately, the CFLEC and USCG together seized six total fishing vessels for illegal HSDN use in the North Pacific in 2007, which helped lead to sharp decreases in this illegal activity.⁴⁷

Potential Ways to Employ the U.S. Coast Guard in the South China Sea

The USCG is uniquely poised to support lines of effort of the Asia-Pacific Maritime Security Strategy and the U.S. Pacific Command's Supporting Strategy for the Maritime Security Initiative in the South China Sea. These lines of effort include enhancing U.S. military capacity in maritime Asia, building ally and partner maritime

⁴⁵ UN General Assembly Resolution 46/115 of December 20, 1991,

⁴⁶ Bernard Moreland, "U.S.-China Civil Maritime Operational Engagement," in *China, the United States, and 21st Century Seapower: Defining a Maritime Security Partnership*, ed. Andrew S. Erickson, Lyle J. Goldstein, and Nan Li (Annapolis, MD: U.S. Naval Institute Press, 2010), 160.

⁴⁷ Moreland, "U.S.-China Civil Maritime Operational Engagement," 161.

capacity, reducing risk through military diplomacy and promoting shared maritime rules of the road, and strengthening regional security institutions and supporting rule of law.⁴⁸

Course of Action 1: Employ the U.S. Coast Guard in a South China Sea Theater Security Cooperation

Probably the best application of the USCG towards DOD lines of effort is by using Coast Guard forces in theater security cooperation (TSC). TSC—which uses military activities to shape security environments in peacetime, develops and improves interoperability with partner nations, deters aggression, and helps relieve sources of instability before they become military crises—is one of the Coast Guard’s national defense roles, missions, and functions documented within the 2008 memorandum of agreement between the DoD and DHS.⁴⁹ Annex D of the memo notes that maritime forces shape the security environment through “forward presence, humanitarian assistance, professional exchanges, combined operations, training, exercises, and other diplomatic or military activities.”⁵⁰

Leveraging the USCG in a South China Sea TSC will improve the United States’ ability to shape this complex security environment. This TSC should incorporate elements of military exercises and operational partnerships like RIMPAC, PANAMAX, UNITAS, and AMLEP. Conducting military exercises, law enforcement operations, training, SLOC protection, and other operations and engagements with partner nations and regional institutions in the South China Sea would support all four DoD Asia-Pacific Maritime Security Strategy lines of effort. The primary focus for early iterations of a

⁴⁸ U.S. Department of Defense, *Asia-Pacific Maritime Security Strategy*, 19-20.

⁴⁹ U.S. Department of Defense & U.S. Department of Homeland Security, Memorandum of Agreement Between the Department of Defense and the Department of Homeland Security on the Use of U.S. Coast Guard Capabilities and Resources in Support Of The National Military Strategy, May 20, 2008.

⁵⁰ U.S. DOD & U.S. DHS, Memorandum of Agreement, Annex D.

USCG-supported South China Sea TSC should be on engagement with partner nations with whom the United States already has begun efforts to complement and extend existing efforts to raise maritime capacity, including Vietnam, the Philippines, Malaysia, and Indonesia. Engagement with Japan may also be valuable. Additionally, given the previous success of engagement between the USCG and Chinese maritime law enforcement agencies in the North Pacific, the DOD should consider involving Chinese participation in a South China Sea TSC with the USCG as a confidence-building measure, if not for the first iteration, perhaps for future operations as TSC matures. This potential aspect, however, must be balanced with ensuring that it does not legitimize China's activities in the region to date.

Similar to its participation in other major exercises and partnerships, the Coast Guard has a variety of options for forces to employ in a South China Sea TSC, including major cutters, Tactical Law Enforcement Teams, the International Training Team, Maritime Safety & Security Teams, and Port Security Units. Each of these types of units would bring different capabilities, footprint, logistics needs, and international visibility, which can help tailor Coast Guard contribution to the goals of TSC.

The USCG's unique reputation and capabilities, coupled with its demonstrated success conducting TSC in other areas of the world, indicates that a "South China Sea Law Enforcement Partnership" or similar TSC would be successful in supporting U.S. regional objectives. With its reputation as a "model Maritime Service" for the navies and coast guards of emerging democratic nations, capacity to conduct TSC activities beyond normal military-to-military relations, and ability to engage with wider audiences—

including maritime law enforcement agencies, maritime administrations, and transport ministries—the U.S. Coast Guard is an appropriate choice for this initiative.⁵¹

Course of Action 2: Employ the U.S. Coast Guard in a South China Sea FON Operation

The DOD should request USCG support for South China Sea FON operations. This would support the line of effort to enhance U.S. military capacity in maritime Asia by raising—albeit in small numbers—the assets available to U.S. Pacific Command and the U.S. 7th Fleet for these operations. It may also provide improved optics for the operations in context with China’s use of the CCG to enforce territorial claims.

An interesting potential consequence of using a U.S. Coast Guard cutter for a FON operation in the South China Sea is the possibility of USCG engagement with the CCG during the evolution. With some trust and confidence built through previous success in engaging with Chinese maritime law enforcement agencies in combined operations, a Coast Guard-conducted FON might prove less provocative. On the other hand, there is risk in that it might also sour positive Chinese impressions of the USCG.

Additionally, this might provide an opportunity for the United States to raise the international awareness of and increase the dialogue on expanding the CUES protocols to include regional law enforcement and coast guard vessels.⁵² Though CUES currently does not apply to coast guard vessels, as a military service, the USCG would apply the protocols during any engagement with vessels of the CUES party nations. Accordingly, if a CCG cutter responded to a USCG-conducted FON operation, it could reveal whether the Chinese would also act in accordance with CUES and might provide an avenue

⁵¹ Ibid., Annex D.

⁵² U.S. DOD, *Asia-Pacific Maritime Security Strategy*, 31.

through which the United States and China could cooperate to expand the implementation of protocols for unplanned encounters and decrease risk of provocation in the South China Sea.⁵³

Finally, a USCG-conducted assertion of navigation rights may help maintain international perceptions of the U.S. FON program's legitimacy by mitigating some of the potential gaps in the optics of a CCG or PAFMM vessel escorting U.S. warships. This sort of "white hull" versus "grey hull" diplomacy has some precedent in other delicate operations the Coast Guard has supported in its history, including the pre-World War II Greenland Patrol and Voice of America operations in the Cold War.

⁵³ Captain Kevin Bruen, U.S. Coast Guard, interview by the author, October 25, 2017; Captain Bruen, email to author, March 15, 2018.

CHAPTER 5: CONCLUSIONS & RECOMMENDATION

“Fundamentally, these maritime security issues are about rules, not rocks. The question is whether countries work to uphold international legal rules and standards, or whether they flout them. It’s about whether countries work together with others to uphold peace and stability, or use coercion and intimidation to secure their interests.”

- Assistant Secretary of State Daniel Russel, Testimony to the U.S. Senate, 2015¹

The ambiguity and confusion resulting from excessive territorial claims in the South China Sea will continue to produce great potential for crisis, including possible military action and escalation between maritime law enforcement agencies. This thesis examined the roles and activities of Chinese maritime agencies in the South China Sea, the background and utility of the U.S. FON program, and possible uses of the USCG to enhance U.S. efforts in the region, and reached the following conclusions:

Conclusion 1: China can exploit gaps in maritime governance by leveraging the China Coast Guard and PLA Maritime Militia to circumvent international rules and/or norms and perceptions in the South China Sea.

Conclusion 2: The United States should continue to bolster its own and allied capability to uphold international rules or norms in the South China Sea.

Conclusion 3: The U. S. Coast Guard has proven capability to conduct military exercises, international engagement, and Theater Security Cooperation in a variety of complex environments that clearly indicate its value as a means to achieve U.S. strategic goals in the South China Sea.

Though not a party to the disputes in the South China Sea, and historically not taking a particular side on claims to sovereignty, the United States has elected to abide by UNCLOS despite not ratifying the convention and has strategic interests affected by the disputes and instability they may cause.² The United States has taken a number of actions

¹ Maritime Issues in East Asia: Hearing before the Senate Foreign Relations Committee U.S. Congress, Senate, 114th Cong., 1st sess., May 13, 2015, (Testimony of Daniel Russel, Assistant Secretary of State for East Asian and Pacific Affairs). https://www.foreign.senate.gov/download/051315_Russel_Testimony (accessed February 20, 2018).

² The United States recognizes UNCLOS as a codification of customary international law and accordingly abides by its terms. Though the United States signed UNCLOS in 1994, the U.S. Senate has yet to ratify the treaty. Technically the word is “accede” vice ratification although most commentators

using diplomatic and military elements of power, increasing U.S. military presence in the region, calling for a halt on land reclamation activities, strengthening security cooperation with regional partners, and assisting regional partners in improving their ability to patrol their EEZ.³ Leveraging the USCG's unique role, reputation, capabilities, and expertise as a military and law enforcement service might minimize or mitigate some strategic gaps the PRC could exploit and can help bolster U.S. partners in the region to maintain balance of power and protect U.S. interests.

Recommendation: Deploy a U.S. Coast Guard National Security Cutter in support of U.S. Pacific Command/U.S. 7th Fleet for a two-phased deployment consisting of a Theater Security Cooperation and Freedom of Navigation assertion in the South China Sea.

The best means through which the USCG can support a TSC and FON operation in the South China Sea is deployment of a *Legend*-Class cutter in support of U.S. Pacific Command and U.S. 7th Fleet. The most-capable ship in the Coast Guard fleet, the *Legend*-Class “Maritime Security Cutter, Large” (WMSL) or “National Security Cutter,” has capabilities somewhat similar to that of the U.S. Navy Littoral Combat Ship (LCS). This class has supported RIMPAC and Western Pacific deployments in addition to “routine” counterdrug patrols in the Eastern Pacific, Operation ARCTIC SHIELD and fisheries enforcement patrols in the Arctic Ocean and Bering Sea, and post-disaster humanitarian operations in the Caribbean Sea.

generally use the term ratification in discussing the US's current position on the matter. Ratification takes place immediately after a treaty is signed. Once the treaty is ratified by the required number of countries, it goes into effect. Countries who approve the treaty after the treaty goes into effect, are no longer ratifying the treaty since it is already in effect, but rather are acceding to its terms. UNCLOS entered into force in November 1994 with the requisite 60 ratifications.

³ O'Rourke, 34.

Mitigating Risk

Deploying a *Legend*-Class cutter to the South China Sea would present some challenges for the Coast Guard that operational planners must consider and mitigate. Risk would exist to mission from the challenges of long-range logistics support and the temporary loss or redistribution of assets available for other congressionally-mandated Coast Guard missions, to forces due using a more lightly armed cutter during a FON assertion, and potentially to Service reputation or regional partnerships by using the USCG in an operation the PRC sees as provocative and threatening to its sovereignty.

Logistics challenges—while significant—can be mitigated by leveraging infrastructure already in place that supports deployed U.S. Navy ships and planning longer-term logistics. For instance, the USCG could use the logistics network supporting the rotational deployment of U.S. Navy LCS in Singapore as a means through which to plan major maintenance or repairs.⁴ Preparations for these missions should include a planned one to two week maintenance period approximately midway through the deployment and probably a temporary detachment of logistics experts, engineering personnel, and electronics technicians, as well as anticipated parts requirements staged in Singapore for faster response to the ship. Another mitigating factor would be regular portcalls in various partner nations throughout the deployment, which would be planned aspects of the TSC and include various outreach activities in addition to meeting logistics needs. USCG cutters routinely operate independently on deployments, so the logistics

⁴ U.S. DOD, *Asia-Pacific Maritime Security Strategy*, 21.

concern—other than having longer lines of communication—would not be very different from normal cutter patrols and planning would help mitigate risk.

A more significant mission risk is the redistribution of key assets needed for other Coast Guard missions. Only five *Legend*-Class cutters are operating as of early 2018, with 11 planned for acquisition.⁵ Taking a major asset out of availability for likely a year—to include additional pre-deployment work-ups and exercises—would have a negative impact on the Service’s ability to maintain normal presence for regular Coast Guard law enforcement and homeland security missions. “Lost” cutter availability would be absorbed by a fleet already stretched by the demands of other missions—specifically Western Hemisphere counternarcotics operations—or assumed by the Service and mitigated through strategic communications on value added to U.S. regional objectives through South China Sea missions.

Another area of risk within this recommendation is increased vulnerability to potential threats during FON operations due the limited combat capabilities of USCG cutters. Captain Dale Rielage noted a cutter alone would be poorly equipped during a South China Sea confrontation, particularly due the limits of Coast Guard authorities in the region and their less robust capabilities.⁶ Flying U.S. Navy surveillance aircraft or sailing another U.S. warship with the cutter as part of a surface action group during the operation might mitigate some risk, but these actions might also escalate tension of the operation and could detract from the strategic messaging and optics sought by conducting

⁵ U.S. Senate Committee on Appropriations, FY2018 Homeland Security Appropriation Bill Released, <https://www.appropriations.senate.gov/news/majority/fy2018-homeland-security-appropriations-bill-released> (accessed March 13, 2018).

⁶ Captain Dale Rielage, “Coast Guard: Wrong Tool for the South China Sea,” *U.S. Naval Institute Proceedings*, 143, 9, September 2017, <https://www.usni.org/magazines/proceedings/2017-09/coast-guardwrong-tool-south-china-sea> (accessed April 9, 2018).

the assertion with a USCG cutter. While the reports of U.S. Navy ships from recent operations indicate PLAN or CCG ships would escort a USCG cutter—and cutters might also have interactions with maritime militia vessels—they probably would not experience major aggression as the PRC likely prefers to prevent escalating tensions with the United States in the South China Sea in current circumstances. Another mitigating factor are intelligence threat estimates, which would improve decision-makers' ability to assess risk and decide on mitigation actions as necessary prior to the operation. Increasing the combat power of USCG cutters in future missions is another option to mitigate risk from a capability mismatch. According to U.S. Coast Guard Commanders Tim Kerze and Dana Reid, 11 National Security Cutters and 25 planned Offshore Patrol Cutters could receive increased combat capabilities—including improved tactical data links and anti-submarine and increased surface warfare capabilities with the ability to deploy the U.S. Navy MH-60R helicopter—at moderate cost.⁷

Perhaps the most important challenge to the argument for using a USCG cutter in a FON assertion is risk of damaging the Service's reputation and the confidence built between the USCG and Chinese maritime agencies in previous engagements by embroiling it in a mission perceived so provocatively by the PRC. One of the potential benefits from using a USCG cutter is the international perceptions of the “security” or “safety” optics of a white-hulled ship vice the combat and power projection capabilities of a grey-hulled ship. The USCG enjoys a positive international reputation as a “model Maritime Service,” particularly for the navies and coast guards of emerging democratic

⁷ Tim Kerze and Dana Reid, “Rewrite the Playbook on Maritime Homeland Defense,” *U.S. Naval Institute Proceedings 144/3*, March 2018, 30.

nations.⁸ The United States should certainly avoid tarnishing this status, but given the support of other South China Sea nations for previous U.S. FON operations, it seems unlikely using the U.S. Coast Guard in the same type of operation would damage the Service's reputation among regional partners. A more likely outcome—based on diplomatic complaints issued after each U.S. Navy FON and history of leveraging various instruments of power to influence the actions of other South China Sea nations during disputes—might be the PRC limiting future engagement between the CCG and USCG on maritime security, safety, or law enforcement issues, including the possibility of Chinese participation in a “South China Sea Law Enforcement Partnership” or other regional TSC. This would be detrimental to the developing U.S.-PRC maritime agency relationship. Mitigation strategies for this concern might include diplomatic communications prior to the operation to assuage Chinese concerns—though this would preclude FON assertions against PRC excessive claims for advance notification and permission for innocent passage—or appropriate information campaigns to reiterate the peaceful and legitimate nature of FON and to highlight other aspects of the U.S.-Chinese maritime partnership.

Significant risk exists in this proposed deployment of a USCG cutter to the South China Sea. However, the opportunity to leverage the USCG in addition to other military efforts in the region to achieve U.S. strategic objectives should outweigh the costs.

Value Added to U.S. Regional Objectives

The United States should gain important value from using the USCG in the South China Sea. This proposed employment of the Service's unique role and reputation would

⁸ U.S. DOD & U.S. DHS, Memorandum of Agreement, Annex D.

meet all four lines of effort (LOE) outlined in the Asia-Pacific Maritime Security Strategy.⁹ The U.S. Coast Guard can bring additional military capacity—in smaller amounts, but with unique characteristics—to strengthen U.S. capacity to deter conflict and coercion (LOE 1). Through a South China Sea Maritime Law Enforcement Partnership, engagement on a variety of security and defense issues, and sharing experiences and combined operations, the U.S. Coast Guard can build capacity of Asian partners (LOE 2) and strengthen regional maritime security institutions (LOE 4). By conducting a FON assertion, the U.S. Coast Guard can use military diplomacy to reduce risk of miscalculation or conflict and promote shared maritime rules of the road (LOE 3).

Specifically for the U.S.-Chinese relationship, leveraging the “soft power” of the USCG in a military, law enforcement, or maritime security exercise may help develop “confidence building mechanisms” between the two nations. As the PRC continues to develop increased maritime capability, it is important the United States continue to engage with China as not just a competitor, but also a partner. Building trust and confidence—while holding a hard line on the integrity of international laws and rules—is a vital part to finding some resolution to tensions in the South China Sea. Using a USCG cutter in a South China Sea TSC—especially if it involves cooperation with the CCG—could help continue to build trust and confidence between the services and nations. Further, deploying a USCG cutter for a FON operation may result in a different reaction from the PRC from that seen in previous U.S. Navy operations. The presence of a USCG cutter on routine patrol or conducting FON operations in the South China Sea may lead to an unplanned encounter between USCG and CCG cutters. Such an encounter hopefully

⁹ U.S. DOD, *Asia-Pacific Maritime Security Strategy*, 19-20.

will reinforce the necessity for a code of conduct for engagements between coast guards or maritime agencies, and may prompt continued negotiations between the United States and China on this issue.¹⁰ Finally, using the USCG as an example of a “model Maritime Service” in the South China Sea ultimately may help influence the professionalization of the CCG as it matures as a maritime law enforcement agency, specifically in encouraging or coercing movement away from the dangerous and unprofessional behaviors CCG ships have used.

Conclusion

The U.S. Coast Guard remains always ready for an ever-evolving set of missions. Through its history, the USCG developed a superior reputation as a military, law enforcement, maritime security and governance, and humanitarian service, and demonstrated a unique set of capabilities and authorities. While certainly not a panacea in resolving this complex problem, deploying U.S. Coast Guard cutters to support joint and combined military efforts in the region will bring a small but unique contribution to advancing U.S. national security objectives in the South China Sea.

¹⁰ Captain Kevin Bruen, U.S. Coast Guard, interview by the author, October 25, 2017; Captain Bruen, email to author, March 15, 2018.

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Vita

Commander Justin Matthew (Matt) Carter (USCG) has served in a variety of surface operations and intelligence assignments. A Cutterman and Surface Warfare Officer with over 10 years of sea time, he has served in five ships including an exchange assignment as Navigator in USS HOPPER (DDG 70) and command during two assignments, most recently in USCGC DILIGENCE (WMEC 616), a medium endurance cutter homeported in Wilmington, North Carolina. As an intelligence officer, he was a maritime threats analyst at the U.S. Coast Guard Intelligence Coordination Center and National Counterterrorism Center, and served as Executive Officer of Coast Guard Cryptologic Unit Texas at National Security Agency/Central Security Service (NSA/CSS) Texas in San Antonio. CDR Carter earned a B.S. in Government from the U.S. Coast Guard Academy in 1999, M.S. in Strategic Intelligence from the Joint Military Intelligence College (now National Intelligence University) in 2005, and was the U.S. Coast Guard NSA/CSS Director's Fellow from 2011-2012.